THE CLAIMS OF THE UNITED STATES AGAINST THE KINGDOM OF NAPLES

A DISSERTATION

Submitted to the Faculty of Philosophy of the Catholic University of America in Partial fulfilment of the Requirements for the Degree of

DOCTOR OF PHILOSOPHY

By

PAUL CHRISTOPHER PERROTTA

Of the Order of Preachers

WASHINGTON, D. C.

1926

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Paul C. Perrotta O.P.

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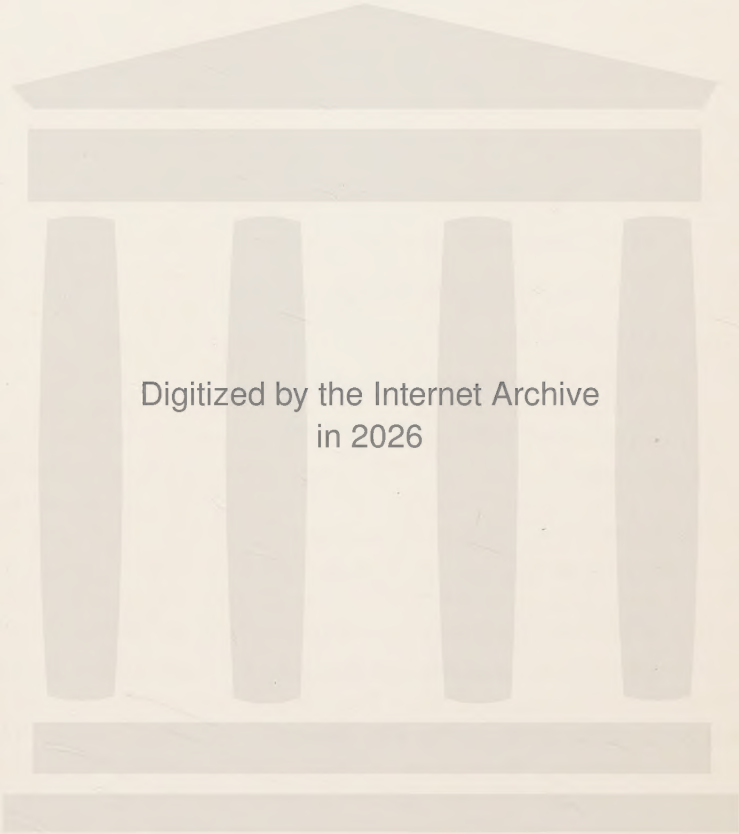
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PREFACE

Destiny has played many a trick on Italy, the most storied of nations, but perhaps it enjoys its best laugh when it reflects on how peculiarly it ordered the history of the Italian peninsula in its relations with the American continents. At a time when the earth was still ringing with the eloquence of the Apostles, she allowed a Roman stoic philosopher to catch a glimpse of a mighty region confined by uncharted seas. When after fourteen centuries the time was ripe for the ocean to break its bounds and reveal a vast new world, as Seneca had prophesied, she chose an Italian as her agent in the enterprise. Nor was she content merely with Columbus, as if his achievement was not sufficiently great, for she commissioned Cabot and Verrazzano to insure Italy of her prerogative as discoverer and explorer. And when the moment came to baptize this new-born hemisphere, she insisted with Zaccharian tenacity that it should be called after an Italian.

On these premises, a sage of the sixteenth century would venture the conclusion that destiny had an important role for Italy to play in America history. The exact opposite proved to be the case. Destiny had exhausted her generosity and, by a sudden stroke, blotted out Italy from American affairs. Except for a few isolated instances, she has allowed the Italian people no contact with the great republic of the West. Of all the major nations in Europe, Italy has figured the least in American history.

In view of this, it might appear a case of misguided zeal to attempt to chronicle the first of these isolated instances of contact, namely, the relations of the United States with the Kingdom of Naples. There are a number of reasons that justify the undertaking. In the first place, no phase of American history can be so trivial as not to warrant treatment: the story of the United States is a grand epic even to its minutest details. The second and more weighty consideration is the conviction that the history of our relations with Naples is not so insignificant as may at first appear. The subject was big enough to arrest the attention of three administrations and to hold the interest of the American people for a period of twenty years, Senator Benton, a keen and well-qualified observer of his times, confesses in his *Thirty Years' View* (I. 604), that the "indemnity obtained from Naples . . . may be

looked upon as one of the most remarkable of Jackson's diplomatic successes." And if this is not sufficient to stamp it as a meritorious undertaking, the fact that the narrative includes glimpses of our diplomatic experiences with England, France, Denmark, Holland and Russia, in one of the most colorful epochs of our history, certainly presents it with genuine credentials of its utility, if not of actual importance. It is not because the tale is uninteresting and unsuggestive that textbooks exclude it, but only on account of the magnitude of the issues then at stake with France and England.

The story is concerned with depredations committed on American commerce in the years immediately preceding our second war with Great Britain by Joachim Murat, King of Naples, and the consequent attempts of the United States to obtain indemnity for such spoliations.

Murat was dethroned in 1815 and the former Bourbon dynasty restored. The United States being involved with England at the time, could not give this matter serious attention. In 1816, however, at the request of those merchants who had suffered losses, President Madison sent over to Naples, William Pinkney, of Maryland, one of the foremost diplomatists of his day. The Neapolitan government took the stand that Murat had been an usurper and that the legitimate ruler of Naples could not be held responsible for the acts of an intruder. In keenness and ability Pinkney was quite able to match the King and his ministers, but he was not given sufficient time to conduct the negotiations, so his mission failed. Serious internal and international problems left the question in abeyance during Monroe's two terms, but in 1825, on the accession of a new King to the throne of Naples, and the entrance of a New England President into the White House, the issue was reopened. John J. Appleton, secretary to the legation in Madrid, was appointed commercial agent to Naples with instructions to sound that government on the question of indemnity. The response was disappointing. The court of Naples gave the same answer it had given to Pinkney in 1816, while Appleton was powerless to remonstrate effectually, since he was not vested with the authority of a chargé. Once more the baffled American government receded. The New England merchants kept sending memorials to Congress, urging some sort of settlement. The election of Andrew Jackson to the Presidency in 1828 did not suggest any solution of the problem to the New England interests, for it was unlikely that a Tennessee President would succeed

where an Adams had failed. But there was a dash and a pride about the Old Warrior that could brook no reversal either in the field or in the council chamber. In his third annual message to Congress, December 6, 1831, he pledged himself to the nation to secure indemnity for the wrongs committed against the American merchants by France, Holland, Denmark, Spain and Naples, and he resolutely pursued negotiations until payment was made. Late in 1831, he sent John Nelson, of Maryland, to Naples with explicit orders to obtain satisfaction by March of the following year or to ask for his passports. Nelson proved that he was animated with even more aggressiveness than the hero of New Orleans. When March came without answer, he counselled severe measures. Jackson astounded him by granting Naples a further opportunity to become reconciled to the inevitable. By October, 1832, an agreement was reached, whereupon Nelson returned to the United States with a copy of the first convention entered into between the American Nation and an Italian people.

The whole tale is scarcely less absorbing than the history of our relations with France on the same question and during the same period, a subject which is given prominence in our histories. Though the stakes were not so large in the case of Naples, we discover the same diplomatic policy, the same skill, the same evasions, procrastinations and arguments on the part of the spoilers and the same resoluteness and daring on the part of the claimants. Yet it is a neglected chapter in our history. It is the purpose of the present author to supply this omission. The story is worth the telling, while the labor of gathering the scattered bits of diplomatic history common to two great peoples into one handy volume cannot, it is believed, be devoid of usefulness.

Another consideration has urged this undertaking. The success of the recent Loan Conference is full of promise. The whims of destiny may in the years to come, bring about intimate relations between the United States and the Italian people. This is not in the nature of a prophecy, but of a precaution. In so happy a contingency a work of this description will not be without value.

It is logical to start the story from a date and an incident that are associated in the history both of Naples and of the United States. Such a common meeting-ground is the battle of Austerlitz, December 2, 1805, Napoleons's most brilliant, and yet most heartless victory. This triumph of the French arms over the combined forces of Austria, Russia and Germany, made the Corsican the master of Europe on land and seriously affected the destinies of

both America and Naples. For America, it meant the beginning of a long night of commercial chaos, brought about partly by Napoleon's decrees in answer to the English Orders in Council and partly by Jefferson's ill-advised rejoinder in the way of a long embargo. For Naples, it meant the destruction of its government. Naples had dared to join the Coalition against France, for which Napoleon determined to punish her. Unfeelingly he uttered his decree, "The Bourbon dynasty has ceased to reign," and it did cease. Without striking a blow, King Ferdinand IV fled in terror to Palermo, whereupon Napoleon created his own brother Joseph, King of Naples. Later, when he transferred Joseph to the throne of Spain, he assigned the crown of Naples to his brother-in-law, Joachim Murat. Acting in accord with Napoleon, Murat made his decrees against American commerce effective for Naples. The American ships that ventured into Neapolitan waters were summarily seized and confiscated by the crown. Out of these arbitrary acts, inspired by Napoleon and executed through Murat's rapacity, came about the first diplomatic contact of the American people with an Italian State.[1] One might wish for a more agreeable beginning of relations, but happily, out of this first misunderstanding, there grew with the progress of time a warm bond of friendship between the two nations.

The writer gladly acknowledges his great indebtedness to Dr. Charles H. McCarthy, under whose guidance this dissertation was written; to Rev. Dr. Peter Guilday for his helpful direction; to Dr. Richard Purcell and Dr. J. Sequiera Coutinho for their many suggestions and criticisms, and to Dr. Leo Stock for his assistance in securing permission to work in the Federal Archives. The author also wishes to express his appreciation for the assistance rendered him by Miss McShane of the library of the Catholic University, to Mrs. Summers in charge of the archives of the State Department, to Miss Barney in charge of the collections in the Navy Department, and to Mr. O'Reilly, the chief of the Division of Bookkeeping and Warrants in the Treasury Department. To all others who have in any way helped in the preparation of this work, the author is likewise grateful.

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[1]The fantastic mission of Ralf Izard to the Grand Duke of Tuscany in 1778 cannot be regarded as the first diplomatic intercourse.

CHAPTER I

THE ORIGINS OF THE CLAIMS

The genius of Napoleon Bonaparte won for him an empire and immortality, but his pride led him to actions that brought untold miseries to nations and heartaches to many individuals who loved him. Austerlitz had raised him to unparalleled heights of military power, with the unfortunate result of making him one of the vainest characters in all history. His pride is the explanation of his shameful treatment of Pius VII, of his divorce from Josephine, of the humiliations heaped on the German Confederacies, of the disastrous campaign in Russia and of his ill-starred attempt to regain the throne after his imprisonment in Elba. It is in his vanity too that we find the origins of the claims of the United States against Naples. This will be evident in a review of the international turmoil that agitated the first decade of the nineteenth century.

In her gigantic struggle for existence England was forced to resort to drastic measures immediately affecting the commerce of the United States. She impressed our seamen and placed severe restrictions on our trade with Europe. These irritating measures executed by the ministry of William Pitt, were somewhat modified when, on the death of Pitt in 1806, Charles James Fox, a known friend of America, succeeded to the premiership. Fox could not influence his cabinet to revoke the Order in Council of May 16, 1806, establishing a blockade from Brest to the Elbe, but he proved his friendliness toward America by secretly ordering the British naval officers to enforce it only from the Seine to Ostend. This left the Netherlands, the Rhine Valley and the Northwest of France open to American trade. Though this concession was meagre, it was enough to stem the rising tide of hostility. All would have gone well, if at this moment the vanity of Napoleon had not exerted itself. The arrangement was useful to him since he was receiving needed supplies, but he disdained to be under obligations to a hated enemy. Pretending that he was unaware of the modification, he issued a counter decree at Berlin, November 21, 1806, declaring the British Isles to be in a state of blockade and prohibiting British trade with any part of his empire. By British trade, Napoleon meant not only the commerce carried on

by English vessels, but also that of any country whose ships had touched at an English port. Napoleon's impudence in thus placing himself above international law was matched only by his audacity in declaring a blockade without having a fleet to enforce it.

England was not slow to accept this challenge. On January 7, 1807, she issued another Order in Council, forbidding to neutrals the coastal trade in any part of the French empire. On the accession of George Canning to power, a new Order in Council, November 1, 1807, interdicted neutral trade with the entire coast of Europe from Trieste to Copenhagen, unless the vessels first entered a British port and paid a duty: on their homeward way, they were to call again to make another payment.[1] The stolid Canning now thought he would starve Napoleon, but the conqueror retaliated in his accustomed scornful way. At Milan, December 17, 1807, he decreed that any neutral vessels obeying the recent British commands were to be summarily seized and confiscated.

Caught between these two hostile currents, the condition of American commerce became distressing. The trade with Scandinavia, Russia and the Balkans was still open, but it could not suffice for the healthy appetite of American merchants who had invested large sums in ships and cargoes. Their plight called for remedy, and loud were the complaints that reached the docile incumbent in the White House.

Jefferson met the issue sick at heart. His career as a Continental Congressman, Minister to France and President up to that time had been brilliant, He had dreamed of stepping out of office and retiring to his beloved Monticello with an honorable record. Now he saw a situation that would ultimately wither his laurels and detract from his fame as author of the Declaration of Independence, the purchaser of Louisiana, the sponsor of Gallatin's sound fiscal policy andt he founder of a great party and of a great university.

Three alternatives presented themselves to him, but he detested each. He could recommend war against one of the aggressors, or against both of them, or he could remove the occasion of their spoliations. War was extremely distasteful to him, so he reluctantly adopted the third expedient. He formulated the policy

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[1]Prior to this Order, 528 American vessels had been seized by England: subsequently, 389 more were seized, making a total of 917 vessels. The French seizures were almost half this number. Before the Decrees of Milan and Berlin, 206 vessels were taken; during the enforcement of these decrees, 307 were captured, and since their revocation, 45, making a total of 558 vessels. *American State Papers, Foreign Relations*, III, 584.

that England and France could best be brought to reason by depriving both of necessary American supplies. He urged this measure on a somewhat subservient Congress, and that body, on December 22, 1807, passed the unfortunate Embargo Act. By this law, American merchants, for an indefinite period, were forbidden to engage in any foreign trade.

This pusillanimous, ruinous and clearly unconstitutional act stunned America. With dismay, the farmers saw their crops rotting in their bulging barns, while merchants and shippers fretted at their enforced idleness.[1] Gradually, impatience so gained the ascendency that they disobeyed the law. There was so much profit in shipping that an occasional seizure by England or France or a fine by the Federal authorities mattered little. As for the danger involved, no American skipper worthy of the name gave it a thought. Besides, the alert British Parliament, aware of the consequent advantages to England, on April 11, 1808, passed an act encouraging our merchants to violate the embargo.[2]

These evasions became so numerous and so flagrant that the administration, to keep its self-respect, had Congress pass the Force Act, January 9, 1809. By this bill, the army and navy of the United States were called upon to exact obedience. So drastic a measure against merchants, who after all had the prosperity of the nation at heart, could not fail to produce deep resentment against the President. Jefferson was denounced as a tyrant and angrily requested to change his policy. The sage of Monticello, then serving his last month as President, was deeply anxious to end his term with his policy of an embargo sustained, but the pressure upon Congress was too great. Six days before his term expired, he reluctantly signed the repeal which Congress had been forced to grant, and he retired from office with diminished renown.

With Madison's assumption of office, March 4, 1809, the long Embargo came to an end. The Non-Intercourse Law, which Congress substituted for it, provided that trade could be conducted with all countries except France and England. To induce one of the belligerents to yield, a proviso was inserted, granting to the President, power to suspend the restriction in favor of the first of the two nations to revoke its restrictions.

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[1]Beard, in his *Economic Origins of Jeffersonian Democracy*, pp. 422–28 accuses Jefferson of a total lack of sympathy for the commercial interests of the country. New York, 1915.

[2]Napoleon on April 17, 1808, retaliated by issuing the Bayonne Decree, which ordered the seizure of every American vessel in the ports of France.

Erskine, the British minister in Washington, saw in this an opportunity for his country to win back America's favor. Exceeding his instructions, he informed Madison that the Orders in Council would be withdrawn June 10. Great was the elation when Madison issued his proclamation reopening our trade with Great Britain, but it was short-lived. Canning repudiated Erskine's zealous promise and so Madison had to recall the suspension. The English ministry had enough sense of justice, however, to allow the vessels that had hurried to England on the strength of that promise, to return unmolested to America.

Negotitions were carried on in an attempt to reach an amicable settlement, but they proved nugatory. England continued to issue Order after Order—October 14, 1808, April 26, 1809, February 29, 1810, August 18, 1810—all in some way restricting American commerce. Napoleon, not to be outdone in mischief, on March 23, 1810, decreed at Rambouillet that every ship which had entered a harbor of France or of her dependencies since May 20, 1809, was to be confiscated to the crown. Thereupon, on May 1, 1810, an exasperated Congress passed Macon's Bill No. 2, which reopened American trade with both France and England, but gave the President the power to impose an embargo on one nation if the other revoked its restrictions on our commerce.

Napoleon promptly indulged in a new game of pilfering. He informed Madison that on November 1, 1810, the Berlin and Milan decress would no longer be in force. President Madison should have been chary of his word, but he was too anxious about the prospects of safe trade to attend to the whispers of caution. Accordingly, American merchants were told to trade exclusively with France, since Napoleon had pledged his word that the decrees would be suspended. Literally true to his promise, they were actually suspended, but the American merchants on their arrival in France with their rich cargoes found an oppressive system of licenses and a tariff that was beyond reason. Napoleon had completely hoodwinked Madison and wrought a new injury on our property. It was a sufficient cause for war, but just then England blundered by adding her own insults to American honor. The temper of the Twelfth Congress, composed of young hotbloods, happened to be decidedly anti-English, and when the issue of a war became inevitable if our country was to keep its self-respect among nations, the choice fell on a contest against England.[1]

[1]The documents relating to French and English seizures may be readily found in the *American State Papers, Foreign Relations*, III, and in the *Annals*

Having reviewed the causes of spoliations that were international in their sweep, we can now proceed to examine the part played by the Kingdom of Naples in these offenses against American commerce. Everyone is quite familiar with the phase of universal history just seen, but it was necessary briefly to dwell on it so as to arrive at a proper orientation of the subject. To isolate Naples from the decrees of Napoleon and the decrees of Napoleon from the British Orders in Council is to give a very stilted account of the whole affair. The relations of the United States with Naples are inseparably connected with the tremendous battle of the giants for supremacy in Europe. It is only by fully understanding the extent of English and French depredations on our commerce that we can come to an adqeuate realization of the damage done by Naples.

At the beginning of this international embroglio, Naples was ruled by Joseph Bonaparte, the brother of the Conqueror. Holding his throne by the grace of Napoleon and the fortunes of war, Joseph felt himself quite dependent on the will of his masterful brother. Accordingly, he was prompt to reënact in his kingdom the decrees which Napoleon issued as head of the French Empire. The Decree of Berlin was formally promulgated for Naples on December 20, 1806, less than a month after its enactment for France, and the Decree of Milan on January 9, 1808, three weeks after its proclamation by the Emperor.

These first measures did but little harm to American commerce, for it so happened that very few American ships were then in Neapolitan waters. The confiscations effected in the ports of France had taught the merchants to be cautious in trading with any country likely to reënact the edicts of Napoleon. The only consequences of Joseph's borrowed interdicts was to close the lucrative trade of the Tyrrhenian to Americans.

In the spring of 1808, Napoleon found better employment for Joseph as King of Spain. He then offered Joachim Murat, the husband of his sister Caroline, the choice between the throne of Naples or that of Portugal.[1] Murat chose Naples and became its

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of Congress for the years in question, particularly those of the Tenth Congress, second session, p. 1738; Twelfth Congress, second session, p. 1249 and Thirteenth Congress, first and second sessions, pp. 2061–2083. Treatment of this subject will be found in all our histories, both detailed and textual. The most satisfying account was found in Henry Adams's *History of the United States* (New York, 1893). Vol. III, pp. 371–440 deals with the Berlin and Milan Decrees; Vol. IV is entirely devoted to Jefferson's rejoinder, and other interesting information is scattered throughout Vol. V.

[1]Masson, *Napoleon et sa Famille*, Vol. IV, pp. 237–239.

King, July 15, 1808, assuming as his regal style that of Joachim Napoleon.

Animated by a feeling of gratitude to his benefactor, as well as by a sense of loyalty to his commander-in-chief, Joachim constrained himself scrupulously to continue in the policy of his predecessor. Yet he was never subservient.[1] The Bayonne Decree of April 17, 1808 was proclaimed in force in Naples very soon after his assumption of power, but in a way that demonstrated that he, not Napoleon was sovereign master of Naples.

Apparently no damage was inflicted on American commerce as a result of these ordinances other than the loss of a profitable trade. An official list, drawn up by Henry Clay while Secretary of State, has it that two brigs, the *Nancy* and the *Phenix* were seized and confiscated by virtue of these decrees.[2] A more reliable report, as we shall later prove, places their seizure at a more distant date.

Even granting the correctness of Clay's account, the fact remains that by enforcing these decrees, Naples suffered more than the United States. It frightened away valuable trade. Being principally an agricultural country, capable of growing only a limited variety of products, she was in dire need of importations of manufactures and certain foodstuffs. Accordingly as her need of these things grew, she began to relent of her harsh conduct toward merchants who could supply her wants.

On March 31, 1809, Murat declared that his government would not molest ships of neutral nations bringing to Naples certain articles. Great Britain raised no objection to this modification. An Order in Council, April 26, 1809, accepted the condition and permitted neutrals to import to Naples certain specified products.[3] This concession revived the hopes of American business men. On June 30, 1809, Murat decreed especially that American vessels would be exempted from laws of blockade and could freely import the articles mentioned in his order of March 31st, together with some others.[4] To make certain of America's response, on

[1]There was a dash and an unbridled spirit of independence about this child of the Revolution that would not permit him to lose mastery over his actions. ESPITALIER, *Napoleon and King Murat*, London, 1912. He thought nothing of opposing the Emperor and even dreamed of dethroning him and taking his place. Cf. De Bourrienne, *Memoirs of Napoleon*, Vol. III, pp. 194–5, London and New York, 1891.

[2]*American State Papers, Foreign Relations*, Vol. VI, pp. 384–497.

[3]Nelson to Cassaro, June 29, 1832. Department of State, Despatches, Naples, Vol. I.

[4]These were, rice, staves, Peruvian bark, drugs, Georgia and Louisiana cotton, Java coffee and sugar. MOORE, *History and Digest of the International Arbitrations to which the United States has been a Party*, Vol. V, p. 4575. Washington, 1898.

July 1, 1809, he caused his minister Gallo, Secretary for Foreign Affairs, to address an official letter to Frederick Degan, the United States Consul in Naples, "by which it was declared to be the intention of His Majesty, as a general measure, freely to admit American vessels coming directly into his ports, provided they had regular papers and had not by paying duty to Great Britain, or by submitting to be searched by English cruisers, brought themselves within the decrees of December 21, 1806, and January 9, 1808."[1] Degan promptly forwarded the invitation to American shipping concerns.

On the strength of Murat's promises, the merchants began despatching to Naples vessels with rich cargoes. The first few were fairly treated. The masters readily disposed of the goods and at a satisfactory price. Then as more came, with still richer cargoes, an irresistible temptation was offered to the prodigal King. Murat was in desperate need of money, while the value of the cargoes excited his greed. On March 12, 1810, after two score or so of ships had docked in the harbor, he issued a decree reading:[2]

Joachim Napoleon, King of the Two Sicilies, has decreed and does decree that which follows:

ARTICLE I. In conformity with the orders which we gave from Paris, the twenty-first of December, 1809, we declare confiscated the American vessels whose names are subjoined that is to say, the *Augustus*, *Hercules*, *Zephyr*, *Sophia*, *Romp*, *Two Betsys*, *Kite*, *Sukey and Betsy*, *Mary* (*Capt. Derby*), *Syren*, *Emily*, (*Capt. Waterman*) *Francis*, *Hound*, *Peace*, *Victory*, *Dove*, *Urania*, *Fortune*, *William*, *Nancy*, *Maria*, *Hamilton*, *Phenix*, *Rose and Mary*, *Orizimbo*, *Amherst*, *Mary Ann* and the *John*.

ARTICLE II. Such of the cargoes of the said vessels as have not yet been sold, as well as the ships, are hereby directed to be disposed of by public sale, by the Minister or Administrator General of the indirect duties, and under the inspection of our Minister of Finances, or may be otherwise sold at private sale, by the said minister, as he shall judge more conducive to our interests.

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[1]Degan ceased to be consul the same year. Alexander Hammett was appointed in December to succeed him. The following is the list of consuls in Italy in 1810: Thomas Appleton, Leghorn; Alexander Hammett, Naples; Thomas H. Storm, Genoa; John Broadbent, Messina; Abraham Gibbs, Palermo, and Richard O'Brien, Sardinia. *Annals of Congress*, Eleventh Congress, first and second sessions, p. 1999.

[2]MOORE, *op. cit.* Vol. V, pp. 4575–6.

ARTICLE III. The proceeds of these sales shall be deposited in a particular bank, to be hereafter employed as we shall judge convenient.

ARTICLE IV. If any of the captains of the aforesaid vessels have claims upon them which they may think proper to advance, they are authorized to present them and explain their pretensions in relation to the same, and we shall decide thereupon in pursuance of the report which we shall cause to be made to us by our Minister of the Finances and the Minister of the Marine and of War, after having taken the opinion of a commission composed of one of the Administrators-General of indirect duties, of one member of the Council of Maritime Prizes and one officer of the marine.

ARTICLE V. Our Ministers of the Finances, of War and of the Marine are charged, as far as it concerns them respectively, with the present decree.

JOACHIM NAPOLEON.

With violent haste the decree was executed and Joachim Napoleon calmly pocketed the money. It is certain that he hazarded this affront to the United States because of the might of his protecting overlord, but it is likely too that he was prompted to it by the example of do·ility which America was then exhibiting toward both France and England.

It did not take the "concession" embodied in Article IV to prompt the ships' captains to fume at the confiscations. They filed their claims, loudly berating the treachery of the crown. Hammett, the new consul, used his official character to obtain justice. He vigorously protested the seizures, asserting that it was an insult to his country and that unless satisfaction be given, the United States would retaliate. He was accorded scant attention. Plundering was too gay an occupation to be discouraged by the threats of a "gunboat" government.[1]

The few ships that straggled in after the publication of the above decree were promptly seized. This brought the number of prizes to thirty-five. After May 18, 1810, no more American ships came, since the warning had been given. This warning came in time to stop a large spring shipment. Macon's Bill No. 2 in

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[1]Although the victories of the Tripolitan War had aroused admiration for our naval prowess, the unfortunate affair of the *Chesapeake* and the *Leopard* in 1807 had largely dampened this feeling. Jefferson's advocacy of a gunboat defense was notorious. It was only after the engagement between the *President* and *The Little Belt* in 1811 that our prestige began to revive.

the May of this year diverted the larger stream of commerce into French and English harbors.

Toward the end of the year, three vessels ventured into Sicilian waters and found to their regret that the decree still operated: Murat was as rapacious as ever. Americans began to be more cautious. Only two schooners were confiscated during 1811, one taken in Naples, the other in Gallipoli.

In the following year, Murat joined Napoleon in his Russian campaign, leaving Queen Caroline to rule the realm. This led several merchants to hazard a new expedition. The trade with France, as we have seen, on account of the high tariff, was not profitable. They found Naples consistent in her robberies. Queen Caroline was too much of a Bonaparte to neglect this new opportunity of adding to her resources. Under her direction, eight American vessels, five ships, two schooners, and one brig, were seized and the proceeds of their sale deposited in the private coffers of the Murats.

The saddest feature of the story was the plight of the seamen whose vessels were confiscated. This act rendered them homeless and practically penniless. Hammett in this crisis, splendidly performed the duties of a consul. He fed and housed them as best he could while they waited for a ship to take them home. Neapolitan officials kept promising them one, but did nothing. Finally, on his own authority, at the expense of the United States government, Hammett chartered a ship on which officers and crew returned to the States to relate their dreary experience.

The War of 1812 now came to divert the attention of American merchants. No more vessels were sent to Naples. Besides they had learned their lesson and would not further risk their fortunes until a more dependable pledge than the promise of a Murat or a Bonaparte would be given them.

CHAPTER II

THE EXTENT OF THE CLAIMS

Several lists of the captured vessels, with details of cargo, value and owners, were drawn up from time to time by various officials concerned with the task of obtaining indemnity. The lists were made up from the individual protests filed on different occasions by the respective owners or masters of the vessels. The most important of these catalogues are those of the United States consul in Naples, Alexander Hammett, the list given to John Appleton as part of his instructions when assigned to Naples and the report of Henry Clay to Congress in 1827.[1]

These lists are somewhat discrepant. To reconcile them presents a puzzling problem. The discrepancies are hard to explain but since the issue is not important, it is idle to attempt it. While disagreeing as to the number and names of the vessels, they lead to the same general result of a two million dollar loss.

The present writer is inclined to accept as the most trustworthy, the report of Alexander Hammett. This list was drawn up June 5, 1833, by order of Edward Livingston, Secretary of State. The schedule requested was to be as authentic and as correct as could be prepared from American and Neapolitan documents which Hammett had at his disposal. Hammett transmitted the list under his hand and seal and otherwise vouched that it was as accurate as was humanly possible. The consul was a careful and reliable official, thoroughly familiar with the subject of the claims. He had succeeded Degan in the consulate in 1810 and was still consul when the indemnity was finally agreed to in 1832. In this protracted period of service, as the only American official in Naples, he had been the confidant of the merchants who were seeking reimbursement from the Neapolitan government. Into his hands came all their original papers, licenses, clearances, bills of ladings, affidavits. Clearly, then, he was in a better position than Clay to submit a trustworthy account of the extent of the claims.

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[1]Hammett's report is found as an enclosure of Davezac to Livingston, June 20, 1833, Department of State, Despatches, Naples, Vol. I; Appleton's list in in *Senate Documents* of the 22d Congress, 2d session, No. 70; Clay's catalogue occupies a good portion of Vol. VI of *American State Papers, Foreign Relations*.

A further argument lies in the fact that Clay's list given to Appleton in 1825 as part of his instructions, and his memorandum to Congress in 1827 do not fully agree. As he himself confesses in the transmission of his report to the House of Representatives, the claimants in their anxiety to obtain indemnity had exaggerated the amount in their memorials to the State Department or had included vessels and cargoes which had been confiscated by France near Neapolitan waters. For these and other reasons, he submitted his report as "only approximating to accuracy."[1]

Clay's schedule of the claims, nevertheless, is important. It gives helpful details as to owner, cargo, clearance, value and circumstances of capture for each vessel. Hammett's memorandum gives only the name of the vessel, cargo and date of seizure. The whole story of the actual spoliations might be sufficiently gleaned from his painstaking report, given in full in the volume of the *Foreign Relations* just quoted.

In drawing up the following list of vessels with remarks on each, the present writer has followed Hammett's report with regard to chronology, cargo and number of vessels. Other items have been taken from Clay's extensive memorandum of 1827. Appleton's schedule has contributed a few other items. It is intended to show in order, the date, the name of the vessel, the nature of the act for which indemnity was asked, the cargo and explanatory remarks.

1809—August 27. Schooner *Hamilton*, confiscated.
Cargo: Coffee, sugar, codfish, tobacco.

September 13. Ship *Hercules*, confiscated.
Cargo: Sugar, tea, bark, coffee, tobacco, codfish, rum, nankeens.
The *Hercules* arrived at Naples September 13, 1809, and after the usual examination, was admitted to a free entry with permission to sell and discharge the cargo. When the cargo was about two-thirds unladen, that part which remained on board was taken out by force, and the whole confiscated and sold at public auction for the benefit of the Neapolitan government.

September 13. Ship *Augusta*, confiscated.
Cargo: Cocoa, coffee.

September 30. Schooner *Zephyr*, seized.
Cargo: Logwood and coffee.

[1] *American State Papers, Foreign Relations*, Vol. VI, p. 385.

September 30. Brig *Sophia*, seized and confiscated.
Cargo: Coffee, ginger, logwood, tobacco. The case of this ship was brought to the attention of William H. Crawford, United States minister to France.

October 16. Ship *Margaret*, captured.
This vessel was captured by a French privateer, which brought it to Naples. A compromise was made with the captors whereby a part of the cargo was surrendered. On her way home the ship foundered.

November 5. Brig *Orizimbo*, captured.
The brig sailed from Baltimore August, 1809 for Palermo, where it was captured by a Neapolitan privateer. The proceeds of the sale were placed in the *caisse d'amortissement*.

November 30. Brig *Two Betsys*, detained and captured.
Cargo: Incense, myrrh, indigo, coffee, pepper, tobacco, cocoa.

December 2. Brig *Romp*, confiscated.
Cargo: Sugar, coffee, pepper, cocoa, gum, cassia, nankeens, salmon, codfish, indigo, logwood. The *Romp* was a new vessel, built and fitted in the best manner and cost $18,000. It sailed from Salem in October, 1809. On arriving at Naples, it was placed under restraint The cargo, according to the account of sales rendered, produced at Naples (exclusively of embezzlement, which was found, by the deficiency of the weight of the articles sold to be about twenty per cent) 116,738.27 ducats, equal to $93,390.62. The vessel was not sold till a later period at a price which the claimants have been unable to ascertain.

December 9. Schooner *Kite*, confiscated.
Cargo: Sugar, coffee, pepper, cassia, wax, sarsaparilla, tobacco, logwood, indigo, clover.

December 14. Brig *Victory*, captured.
Cargo: Sugar, coffee, pepper, cocoa. This vessel was captured by a French privateer and sent to Naples.

December 19. Ship *Trent*, sequestered.
Cargo: Sugar, coffee, cocoa, ginger.

December 30. Schooner *Ousetonack*, captured.
This schooner was captured by a privateer and proceedings were commenced before the tribunal for replevin, but the property was taken out of the hands of the

captors by the government and confiscated. At the sale, the cargo brought $20,000, the vessel for a sum unknown. The cargo being largely of fish had suffered from having been kept too long in a warehouse.

Schooner *Mary* (Larcom), confiscated.[1]
Cargo: Sugar, pepper, Georgia cotton. The vessel was captured at Civita Vecchia, brought to Naples and sold by order of the King.

Brig *Suckey and Betsy*, seized and confiscated.
This vessel sailed from Salem for Gallipoli. Three weeks after its arrival it was sequestered. The cargo was unloaded by an armed force and sold at auction by Neapolitan officials.

1810—January 7. Schooner *Syren*, captured.
Cargo: Salmon, beef, codfish. This vessel sailed from Newburyport for Palermo. Upon touching at Alicante, it was captured by a Neapolitan vessel and carried into Nicche, where vessel and cargo were sold under the decree of the King.

January 9. Brig *Phoenix*, captured.
This vessel carried ballast and cash.

January 15. Schooner *Peace*, captured.
The cargo consisted simply of dry codfish.

January 22. Brig *Emily*, seized.
Cargo: Sugar, cassia, pepper, coffee, cocoa, clover, indigo, logwood. The vessel sailed from New York for Naples and Smyrna. On her arrival in Naples it was seized. The brig being a fine vessel, was appropriated to the private service of the King, for which a claim was entered by Messrs. Falconet and Company, agents of the owner.

January 26. Ship *Francis*, captured and confiscated.
Pepper was the only article carried by this vessel.

February 1. Schooner *Hound*, seized.
Cargo: Coffee, sugar, cassia, logwood.

February 7. Schooner *Dove*, sequestered.
The cargo consisted of codfish.

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[1]There are several vessels named *Mary*. To distinguish them, the name of the master is added.

February 12. Schooner *Maria*, detained and confiscated.
Cargo: Tobacco, wax, logwood, nankeens.

February 12. Schooner *Urania*, confiscated.
Cargo: Nankeens, nutmegs, coffee, camphor, cloves, cassia.

February 13. Schooner *Amherst*, captured and confiscated.
The vessel with a cargo of codfish on board, was taken by a ship flying the French colors, which brought it to Naples.

February 13. Brig *Ruth and Mary*, captured.
This ship had a cargo of coffee.

February 13. Schooner *William*, captured.
Cargo: Sugar and pepper.

February 13. Schooner *Fortune*, confiscated.
Cargo: Tobacco, cotton, logwood, staves.

February 14. Schooner *Nancy*, seized.
Cargo: Sugar, coffee, codfish, nankeens, logwood, bark, cocoa, cloves.

February 15. Brig *Nancy Ann*, condemned.
This vessel carrying codfish was sailing to Gallipoli for a cargo of oil. While entering the harbor of Naples, it was seized and condemned on the allegation that it was from England. No other proof was adduced beyond the fact that the vessel was at the time of capture in sight of a British squadron, with which it was *supposed* to have had an understanding.

February 16. Schooner *Mary* (Derby), confiscated.
Cargo: Sugar, cotton, bark, gum, codfish, coffee, logwood, pepper.

February 17. Schooner *Louisiana*, sequestered.
Cargo: Sugar, cocoa, codfish, coffee.

February 20. Brig *John*, sequestered.
This vessel carried only codfish.

April 16. Schooner *John*, sequestered.
Cargo: Codfish, tobacco, sugar, coffee, logwood, codfish.

April 16. Brig *Betsey*, sequestered.
Cargo: Sugar, cocoa, coffee, logwood, codfish.

May 18. Brig *Radius*, sequestered.
Cargo: Sugar, coffee, pepper, herrings, codfish, logwood, hoops, alewires, mackerel, salmon, tuna, staves, planks.

November 9. Ship *Nietriss*, confiscated.
The vessel was in ballast.

December 6. Ship *Henry*, seized.
Cargo: Logwood, coffee, cotton, sugar, bark, ginger, cassia, nankeens, indigo, whalebone, codfish.

December 31. Brig *Alexander*, seized.
Cargo: Coffee, codfish.

1811—January 31. Schooner *Oceanus, seized.*
Cargo: Nankeens, indigo, bark, nutmegs, cloves, sugar, cocoa, cassia, fustic, Nicaragua wood. After capture, this vessel was retained for service in the Neapolitan navy, while the captain and crew were kept for a long time in a criminal prison. The proceeds of the confiscation passed into a bureau for the special purpose of creating a marine. An eighty-four gun ship and two frigates were actually built, which after the restoration of Ferdinand IV formed a part of his navy.

September 4. Schooner *Alert*, confiscated.
Cargo: Sugar, coffee, cod, yellow wood, salmon, iron hoops, whalebone. This vessel was captured at Gallipoli.

1812—February 19. Brig *Golden Age*, sequestered.
The cargo consisted of pilchards.

March 2. Ship *Pocahontas*, seized.
The vessel carried pilchards.

March 19. Ship *Admittance*, seized.
Pilchards were the only commodity brought.

March 19. Ship *Boston*, detained.
The vessel had pilchards on board.

March 19. Ship *Concord*, detained.
Pilchards.

March 10. Ship *Horace*, detained.
Pilchards. This vessel was liberated June 22, 1812.

April 16. Schooner *Playmate*, seized.
Logwood. This vessel was taken by a French privateer and compromised.

April 26. Schooner *Mary* (Drew), seized.
The vessel carried Spanish doles. While sailing to Messina, a strong current carried it to the coast of Calabria, where it was seized by order of General Manker. On its way to Naples, it was wrecked.

In order to show the differences in the various reports, we subjoin the following table. It will be noticed that the three lists agree only in thirty-two names.

Hammett	Clay to Congress	Clay to Appleton
Schooner *Hamilton*		Schooner *Hamilton*
Ship *Hercules*	Ship *Hercules*	Ship *Hercules*
Ship *Augusta*		Ship *Augusta*
Schooner *Zephyr*	Schooner *Zephyr*	Schooner *Zephyr*
Brig *Sophia*	Brig *Sophia*	Brig *Sophia*
Ship *Margaret*	Ship *Margaret*	
Brig *Orizimbo*	Brig *Orizimbo*	
Brig *Two Betseys*	Brig *Two Betseys*	Brig *Two Betseys*
Brig *Romp*	Brig *Romp*	Brig *Romp*
Schooner *Kite*		Schooner *Kite*
Brig *Victory*	Brig *Victory*	Brig *Victory*
Ship *Trent*	Ship *Trent*	Ship *Trent*
Schooner *Ousetonack*	Schooner *Ousetonack*	Schooner *Ousetonack*
Schooner *Mary* (Larcom)	Schooner *Mary* (Larcom)	Schooner *Mary* (Larcom)
Schooner *Syren*	Schooner *Syren*	Schooner *Syren*
Brig *Phoenix*	Brig *Phoenix*	Brig *Phoenix*
Schooner *Peace*	Schooner *Peace*	Schooner *Peace*
Brig *Emily*	Brig *Emily*	Brig *Emily*
Ship *Francis*	Ship *Francis*	Ship *Francis*
Schooner *Hound*	Schooner *Hound*	Schooner *Hound*
Schooner *Dove*	Schooner *Dove*	Schooner *Dove*
Schooner *Maria*	Schooner *Maria*	Schooner *Maria*
Schooner *Urania*		Schooner *Urania*
Schooner *Amherst*	Schooner *Amherst*	Schooner *Amherst*
Brig *Ruth and Mary*	Brig *Ruth and Mary*	Brig *Ruth and Mary*
Schooner *William*	Schooner *William*	Schooner *William*
Schooner *Fortune*	Schooner *Fortune*	Schooner *Fortune*
Schooner *Nancy*	Schooner *Nancy*	Schooner *Nancy*
Brig *Nancy Ann*	Brig *Nancy Ann*	
Schooner *Mary* (Derby)	Schooner *Mary* (Derby)	Schooner *Mary* (Derby)

Hammett	Cday to Congress	Clay to Appleton
Schooner *Louisiana*	Schooner *Louisiana*	Schooner *Louisiana*
Schooner *John*	Schooner *John*	Schooner *John*
Brig *John*	Brig *John*	Brig *John*
Brig *Betsey*	Brig *Betsey*	Brig *Betsey*
Ship *Nietriss*		
Ship *Henry*	Ship *Henry*	Ship *Henry*
Brig *Alexander*	Brig *Alexander*	Brig *Alexander*
Schooner *Oceanus*	Schooner *Oceanus*	Schooner *Oceanus*
Brig *Golden Age*	Brig *Golden Age*	
Ship *Pocahontas*		
Ship *Admittance*	Ship *Admittance*	
Ship *Boston*		
Ship *Concord*		
Ship *Horace*	Ship *Horace*	
Schooner *Playmate*		
Schooner *Mary* (Drew)		
Brig *Lucky Betsey*	Brig *Sukey and Betsey*	Brig *Suckey and Betsey*
Brig *Radius*	Brig *Radius*	Brig *Radius*
Schooner *Alert*		Schooner *Alert*
	Brig *Perseverance*	Brig *Perseverance*
	Despatch	
	Ship *Maria*	
	Shadow	
		Aurora
		Jersey
		Indiana
		Louisiana No. 2.
		Morning Star
		Mary Ann
		Dove No. 2
Total—49 vessels	43 vessels	47 vessels

Hammett protested that it was impossible to arrive at the correct figures of sales since auction buying had been corrupt. He suggested that the current market price of the goods be accepted instead. Roughly, this would make the confiscations amount to $2,000,000. Clay's report to Congress carried a total of $2,032,939.88, while his memorandum to Appleton placed the figure at $2,163,069.00.

The claims were advanced by well-known Maryland, New York and New England marine corporations and prominent individuals. It may be interesting to give the amount of their individual losses.[1]

Boston Marine Co.	$23,000.00	Leslie, David	$ 250.00
Bradbury, Charles	49,527.75	Maryland Insurance Co.	5,500.00
Barker, George	402.00	Marine Insurance	7,600.00
Barton, John	14,091.34	Oliver, Robert	300,000.00
Brazer, John	15,000.00	Oliver, R.&J.	55,854.74
Craven N.A. & I.T.	15,321.73	Prince, Henry	2,507.00
Coffin, David	35,600.00	Peabody, J.	230,053.13
Cook, James	4,394.98	Proctor, William	306.80
Coulter, John	107,685.60	Page, Jery Lee	
Cronin, J.	35,000.00	Richards, A.	28,000.00
Dutch & Deland	75,711.65	Roulet, John	18,000.00
Dutch, George	3,929.22	Russell, Nathaniel	2,500.00
Dodge, Pickering	13,162.07	Social Insurance Co.	65,663.70
Derby Fishing Co.	26,000.00	Silsbee, Nathaniel	84,882.43
Gray, Henry	600.00	Stewart, Alexander	5,307.50
Gray, Samuel	19,000.00	Swett, William	11,250.00
Gray, William R.	11,312.29	Thorndike, Israel	230,000.00
Gray, William	123,432.88	Union Marine Co.	27,000.00
Homer, Benjamin	14,725.00	Von Kapff & B.	31,382.84
Haskell, Solomon	39,487.00	West, Nathaniel	157,208.64
Hooper, R. & J.	35,000.00	White, Joseph	40,000.00
Huttlestone, Henry.	10,000.00	White, John	6,504.34
King, Samuel	535.00	White, Stephen	1,704.00
Marblehead Social Ins.	5,500.00	Wingate, Edward	21,500.00

General $2,032,939.88

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[1] *American State Papers, Foreign Relations*, Vol. VI, pp. 482, 494.

CHAPTER III

THE MISSION OF WILLIAM PINKNEY

Petitions to have the Neapolitan government pay indemnity for the wrongs committed on American commerce poured in upon Congress from the commencement of the seizures. Both the New England and Maryland interests that had suffered the greatest losses especially plagued the Federal authorities to take up the case with the court of Naples. No prevention of future depredations, much less of reimbursement, was possible until the whole question of free trade could be threshed out with France and England, the instigators of reprisals by smaller nations. The attempts to reach an adjustment with these great powers in a diplomatic way proved futile, so Congress had to resort to war. Not caring to fight both, it declared hostilities only on the more offending England, feeling certain that the issue of arms with this nation would hold for France as well. For three years, 1812-1815, the United States fought for their commercial life against England formally, and by proxy, against all Europe. This Second War for Independence ended victoriously and America was henceforth assured of the freedom of the seas. Incidentally, the year 1815 saw the downfall of Napoleon, whose edicts had more than occasioned the depredations. The Treaty of Ghent somewhat restored America's prestige, while the Congress of Vienna brought tranquillity to Europe. Thereafter Congress was free to turn its attention to the problem of securing indemnity from the countries that had wrought damage to American property.

Another year, however, had to pass before the question could be broached to Naples on account of the disordered state of that government. When Napoleon had escaped from Elba, Murat, according to agreement, had immediately attacked Austria. But whereas Napoleon's campaign lasted a hundred days, Murat was beaten in less than three months. He abdicated May 20, 1815, and took refuge in Corsica.[1] The Bourbon exile, Ferdinand IV, returned from Sicily, where he had been protected by an English fleet, and on June 9, 1815, reassumed the crown under the title of Ferdinand I. To insure its permanency, if not its complete

[1]An exhaustive study of Murat's last days was made by Maurice Henri Weil, entitled, *Joachim Murat, Roi de Naples*, 5 vols. Paris, 1910.

sovereignty, Ferdinand, in a treaty with Austria, bound himself by a secret clause, "not to agree to any changes irreconcilable either with the ancient institutions of the monarchy or with the principles adopted by the H. I. and R. Austrian Majesty for the internal regime of his Italian provinces."[1] This submission to the hated house of Hapsburg, all too evident in spite of the secret article, greatly vexed the liberals and they plotted to have Murat restored. Legitimate or not, Murat's rule had been progressive. He was keenly watching these developments so when it seemed to him that his adherents in Naples had grown to sufficient strength, Murat resolved to make a bid for the throne. September 28, he embarked with six vessels, but a storm dispersed the fleet, forcing him to land in Calabria, October 8, with two ships. As a royal troop was waiting for him, he was easily captured. A court-martial tried him and sentenced him to death. He was shot at Pizzo, October 13.

After this abortive attempt of Murat to regain his kingship, a gloomy tranquillity settled on Naples. Ferdinand, with the aid of Austrian troops, was able to keep order, so that the kingdom turned its attention to problems of peace.

The year 1816 was still in its blush when the news of the restored quiet in Naples came to America. The administration now felt able to act on the question of indemnity. President Madison at this time was to send a new minister to St. Petersburg, and had chosen William Pinkney. Feeling that the Neapolitan case was a simple affair, he decided to have Pinkney go first to Naples, obtain an indemnity, and then proceed to his permanent post at the Russian court. Accordingly, February 28, he sent in Pinkney's name for this purpose. March 2, on Mr. King's initiative, the Senate passed a motion asking the President to show cause why he thought a mission to Naples was expedient. Mr. Madison answered three days later, explaining that in his judgment the case against Naples could be adjusted only by an envoy enjoying ample powers. He mentioned likewise the prospects of effecting the long-desired commercial understanding with Naples.[2] The Senate failing to see the situation in the same light as President Madison, refused to approve the mission, though it promplty

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[1] *History of All Nations*, Vol. 18, p. 50. Philadelphia and New York. Cf. also article *Naples* in *Encyclopedia Britannica*, Vol. 19. pp. 185–7. 1911 edition.

[2] RICHARDSON, *Messages and Papers of the Presidents*, Vol. I, p. 571.

confirmed the Russian appointment.[1] The President then undertook to show the Senate that a mission to Naples was eminently desirable. After a month's effort, he felt confident enough to write, April 17,[2]

> It being presumed that further information may have changed the views of the Senate relative to the importance and expediency of a mission to Naples, . . . I nominate William Pinkney, envoy extraordinary and minister plenipotentiairy to Russia, to be plenipotentiary to Naples, especially charged with that trust.

The Senate proceeded to the question, April 23. A motion by Senator Mason to postpone till July was outvoted 18 to 15. On the same day, and by the same majority, Pinkney was approved as chargé for Naples.[3] He at once began to make preparations for the voyage. His friends had doubted of his accepting so small a post, but Pinkney had reason enough for his eagerness:[4]

> I want to see Italy; the orators of Britain I have heard, but I want to visit that classic land, the study of whose poetry and eloquence is the charm of my life. I shall set my foot on its shores with feelings that I cannot describe, and return with new enthusiasm, and I hope, with new adantages to the habits of public speaking.

On May 10, James Monroe, Secretary of State, formally informed Pinkney of his appointment. His instructions followed the next day. In substance they were to the effect that Pinkney was to seek full indemnity for the losses. Without the slightest cause, the Neapolitan government acting in its sovereign and independent capacity, had inflicted damage on American property. For this unlawful act, reparation was due to the American merchants. Owing to the disordered state of affairs in Naples since the first seizures, the United States had thus far refrained from claiming satisfaction, but now the time of reckoning had come. Pinkney, however, was urged to demonstrate a spirit of reconciliation towards the government of Naples. He was empowered to make reasonable accommodations as to the time and mode of payment. The instructions further advised Pinkney of the desir-

[1] *Senate Executive Journal*, Vol. 3, pp. 33 and 35.

[2] RICHARDSON, *op. cit.*, p. 572.

[3] *Senate Executive Journal*, Vol. 3, p. 46.

[4] LEWIS, *Great American Lawyers*, Vol. 5, pp. 205–6. Philadelphia, 1909

ability of entering into a commercial agreement with Naples. He was told to ask the King to allow the American Mediterranean Squadron the use of a depot, but he was to make it clear that the United States did not thereby pledge themselves to protect Neapolitan commerce. The effect that an American squadron would have on the Barbary States was sufficient recompense for the privilege asked.[1]

For his voyage to Naples, Pinkney was to have the use of the *Washington*, a ship of the line. Acting in conjunction with Monroe, Benjamin Crowninshield, the Secretary of the Navy, on May 29, instructed Captain Isaac Chauncey to take the vessel to Annapolis, there to await Mr. Pinkney.[2] Chauncey was told that if Pinkney wished to stop at any port, he was to do so. June 7, the ship sailed. Gibraltar was reached in seven weeks. Having on board despatches for Shaler, the United States consul at Algiers, Chauncey, with Pinkney's consent, resolved to proceed to Algiers before resuming the voyage to Naples. On the seventh of July, however, the *Java* sailed into the harbor, so Chauncey turned over the despatches to her commander, Captain Perry, with instructions to repair to Naples immediately after delivering them to Shaler. Chauncey, in fact, sent word to all the ships of the Mediterranean squadron to rendezvous at Naples as soon as convenient. A gathering of the ships somewhere was necessary since Chauncey had instructions to hold a general inspection for the purpose of sending home vessels that needed repairing and men whose service had expired. Pinkney thinking it would have a "good effect on the Neapolitan government as regards the negotiations with which he was charged" had suggested Naples, and Chauncey seeing the advantage of its central location, readily agreed.

In a remarkably short passage of five days, the *Washington* arrived at Naples where it cast anchor in its sunny waters. A quarantine of twenty days was imposed, but Pinkney in an informal note, acquainted the Neapolitan government of his official character, so it was reduced to thirteen days. At the beginning of the year a Turkish ship had brought on a severe plague in Calabria, the fresh memory of which made a shorter term for the *Washington* inadmissible.[3]

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[1]Department of State, Instructions, Vol. 8, Monroe to Pinkney, May 10, 1816.

[2]Navy Department, Letters to Ships of War, Crowninshield to Chauncey, May 29, 1816. The Mediterranean Squadron at this time consisted of the frigates *United States*, *Constellation*, *Java*, and the sloops *Ontario*, *Erie*, *Washington*.

[3]*Annual Register*, 1816, p. 132. London, 1817.

After landing, Pinkney addressed an official note to the Marquis di Circello, the Minister of Foreign Affairs, acquainting him of his quality as Envoy Extraordinary of the United States to the King of Naples. The first interview, July 31, was a friendly one. From Circello's conduct, it became evident to the American that the claims of the United States were not likely to be readily admitted. Realizing that it would be a waste of time to talk over the merits of the case with a minister who could of himself decide nothing, Pinkney resolved to prefer the claim as soon as possible in an official note.[1] Having Circello's assurance that it would receive every consideration, Pinkney departed to begin the work of gathering all possible information on the subject of the claims. In this connection, Alexander Hammett afforded him much help.

Wishing to sound Naples on the question of a commercial treaty, which if agreed to, would temper the attitude of the United States with regard to indemnification, Pinkney again sought Circello. A brief interview on Sunday, August 11, did not help Pinkney to any solution. The Neapolitan was extremely reserved and uncommunicative. When Pinkney referred to the principal object of his mission, Circello, without giving him time to proceed, began a defence of his country. He stressed the point that Murat's conduct toward American property had been an act of personal robbery. Together with denying the responsibility of his government for the seizures, he emphasized the fact that the Neapolitan public treasury had derived no benefit from the robbery since Murat had appropriated the money for himself. Pinkney interrupted him at this point, insisting that irrespective of who the beneficiary had been, the fact stood that American citizens had been wronged by Naples from whom the United States would demand due satisfaction. Circello took this good-humoredly, though it was evident that the subject was not a pleasant one. Before the interview ended, Pinkney informally mentioned the wish which had been suggested to himself by Secretary Monroe in the letter of instructions that the American vessels be permitted to have a depot in a port of Sicily for their use. Commodore Chauncey had not permitted Pinkney to forget this item, for in a letter, August 12, he had pointed out the utility of obtaining such a concession. Circello replied that American vessels would

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[1]Department of State, Despatches, Russia, Vol. 6. Pinkney to Monroe, August 29, 1816. In this letter Pinkney informs his old friend that Circello had the reputation of being the cleverest man in Naples. Pinkney's knowledge of this later became empirical.

always be hospitably received in Neapolitan waters, but that the request for a base seemed to him too extraordinary a concession.[1] He promised, however, to consult the King. It was never granted.

By August 24, Pinkney had finished his note which he transmitted with a certain feeling of confidence. The communication, couched in vigorous yet respectful language, was one to be carefully read and seriously pondered. He started from the beginning, showing that the American merchants had come to Naples in good faith on the express invitation of the Foreign Minister.[2] Under frivolous pretexts, their vessels and costly cargoes had been summarily confiscated. For such atrocious conduct, no defence could be devised, nor had any been attempted. It has been a violation of the sacred canons of hospitality, a studied deception that deserved the condemnation of civilized peoples. In the name of justice, the innocent victims of so unparalleled a fraud were entitled to a restoration of their property. No one could seriously question this right. The only problem was to determine on whom rested the responsibility. Since the wrong had been committed by the Neapolitan government, the United States would look to that power for settlement. The fact that a new ruler held the reigns of government did not change the situation.

> The general principle, that a civil society may contract obligations through its actual government, whatever that may be, and that it is not absolved from them by reason simply of a change in government or of rulers, is universally received as incontrovertible. It is admitted, not merely by writers on public law, as a speculative truth, but by States and statesmen, as a practical rule; and accordingly, history is full of examples to prove that the undisturbed possessor of sovereign power in any society, whether a rightful possessor or not with reference to any other claimants of that power, may not only be the rightful object of allegiance, but by many of his acts, in his quality of sovereign *de facto*, may bind the society, and those who come after him as rulers.

Pinkney then warmly answered the objection that the merchants should not have recognized Murat as ruler when they knew

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[1]Chauncey was still in the Bay, waiting for all the ships to assemble, but was about to leave for Messina to settle a money matter in which one of his captains had become involved. Before sailing he was anxious to know if he could make arrangements establishing a base.

[2]The whole note is in Russia, Despatches, Vol. VI, Pinkney to Circello, August 24, 1816.

that King Ferdinand was still alive and claiming the throne. He showed that a merchant cannot be presumed to decide questions of politics. The problem of determining the legitimate ruler has often perplexed the best legal minds. While the doubt exits, for the practical guidance of those who have business with the state so constituted, international law has come to recognize the actual ruler as possessing the attributes of a legitimate sovereign. Otherwise, a state has ceased to exist, which in the case of Naples, could not be postulated. While King Ferdinand was in exile, Naples remained a sovereign kingdom. Merchants have the right of trading with any person or power that gives them guarantee of fair dealing. In Naples, the American shippers saw all the indications of an established rule, all the distinguishing concomitants of a lawful government. Beyond this, they could not be expected to look. In answer to the objection that Murat had privately appropriated the money realized from the sales, Pinkney insisted that the State had nevertheless derived certain advantages. As a result of having a full purse, Murat had not taxed the people as much as he would have otherwise done. Furthermore, several vessels had been converted into warships, which the Bourbon ruler had not scrupled to retain when he had returned to power. For all these reasons, the United States considered the present government of King Ferdinand accountable to the merchants and obliged to indemnify them.

As soon as it became known that Pinkney had submitted his note, opinions became rife in the city concerning the answer that the Neapolitan government would make to the demand of the United States. Pinkney's mission had caused a stir, especially since he had come accompanied by a squadron. This squadron was still in the harbor, weekly increasing in strength. The *Annual Register* has recorded the impression this event made upon Naples.[1]

> A signal proof of the little respect inspired by the government of Naples was exhibited by the arrival in the beginning of August of an American squadron under Commodore Chauncey off the city of Naples, having on board Mr. Pinkney, whose purpose was to demand a large sum of money, being the amount of American property confiscated in the reign of Murat. This measure, which had the appearance of intimidation, excited great alarm in

[1] *British Annual Register*, Vol. 58, p. 132. London, 1817.

> Naples, almost all of the ships of the royal navy having been disarmed; the other means for the defence of the port, however, were not neglected, and the Austrian general Nugent accepted the command of the Neapolitan army. The Marquis di Circello, Minister of Foreign Affairs, delivered a note to each of the foreign ministers relative to the American claims, and couriers were sent to engage the protection of different courts.

Niles Register supplements this account by saying that the Neapolitan government manned batteries with heavy cannon, that 12,000 Austrian troops were placed on guard in the Castle and that Naples counted on the English fleet to cool the ardor of the American seamen.[1]

To use Pinkney's own words, the note was plaguing the Sicilian government. Some were under the impression that Naples would acknowledge the claim, but protest that it could not pay on account of its poverty; others thought that it would pay the amount actually entered on the government's books as a result of the sales. The sum was not large, since the business had been handled by many officials and more than a generous part of it had stopped in transit. The general view taken by keen observers, however, was that the Bourbon ruler would repudiate all blame in the matter and refuse to pay for what he considered, the irresponsible act of an usurper of his throne. He would, however, certainly restore the few American ships which had been pressed into his naval service.

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[1] *Niles Register*, Vol. II, pp. 138–40. Cf. also *American Register*, 1816, p. 123.

CHAPTER IV

FAILURE

Pinkney expected a prompt reply to his note, but this was not to be. The Neapolitan government had definitely decided to answer in the negative, but it feared to do so formally while an American squadron commanded the harbor. Circello knew too that Pinkney must soon leave for Russia, which led him to think that it would be much safer to say no with Pinkney far from Naples, so he adopted a policy of evasion and procrastination. Pinkney continually wrote asking for an answer. Invariably came the reply of the suave minister that the matter was under serious consideration, but that a reply could be shortly expected. Pinkney had already overstayed his time in Naples and was anxious to start for Russia.

A letter from Harris, the American chargé in St. Petersburg, received September 16, brought matters to a climax. The letter stated that Pinkney's immediate presence in the Russian capital was required on account of the strained relations with the Czar. Kosloff, the Russian Consul-General in Philadelphia, had been arrested and tried by a civil court on a charge of rape. The Emperor became thoroughly incensed at this treatment of his agent, having taken it as a personal insult. Harris had tried to explain, but Emperor Alexander had refused to have communications with him. Baffled, Harris was appealing to Pinkney, whom he knew had been chosen to succeed him, to come and placate the Czar. Pinkney, he realized, was acceptable to the Russian court; the Emperor would not be unwilling to discuss the matter amicably with him.

This made Pinkney desirous to be off, but it irritated him to go without having accomplished his mission in Naples. To save his pride, he resolved to make a last desperate attempt to have Circello reply to his note of August 24. King, his secretary, he immediately dispatched to Russia to prepare for his reception by the Czar, while he himself was to remain a while longer to bring all the pressure he could command to bear on the obstinacy of the Bourbon minister. His exertions were unremitting. He sent a sharp note, September 27, asking for a reply to his demands, which failing to evoke an answer, he demanded an immediate interview. Sunday, September 29, the two officials met in con-

ference.[1] Pinkney tried to pin Circello down to a definite date, but the Neapolitan protested that no precise time for giving a categorical answer could be named. When asked for the reason of this, he maintained that the papers in the foreign office relative to the case had been scattered and until they could be collected and studied, they could arrive at no decision. The obvious inference was that no answer would be forthcoming for several weeks. Pinkney then informed the minister that he would leave on October 5 for the Russian capital, unless by waiting a week more, he could be certain of adjusting the business of his mission. Circello,with characteristic good breeding, told him that they would be sorry to see him go. His next remark revealed the principal reason for the delay, though Pinkney did not see it at the time. He asked whether, in case Mr. Pinkney would have to leave before the Neapolitan government could give an answer, he would then accept it. The query found Pinkney at a loss for an immediate answer. He expressed a doubt as to the regularity of the proceeding, since by leaving Naples, he would thereby lose his capacity as American minister to that city. The Marquis warmly rejoined that the procedure was regular enough. Pinkney thought words would be idle just then, so though by saying nothing he might leave Circello under the impression that he would receive and answer the note, he resolved to govern himself as he saw fit when the question actually arose.

While Circello let no hint fall that the Neapolitan government regarded the demands of the United States as unjust, Pinkney was convinced of the futility of wasting more time in Naples, so on September 30, he asked for an audience of leave. In another note the same day, Pinkney informed Circello that he had made up his mind not to accept the reply should it reach him in any place outside of Naples.

October 10, Pinkney left Naples on his arduous trip to the Russian capital. Before he left, he wrote Secretary Monroe a lengthy report giving his impressions of the whole affair.[2] He explained that his staying longer than had been anticipated was due to a feeling entertained till recently of the possibility of successfully completing his mission since "the claim was of great magnitude in a pecuniary sense, involving at the same time important principles." While expressing regret that the Neapolitan

[1]The record of the meeting is preserved in Pinkney's letter to Monroe, October 5, 1816. Russia, Despatches, Vol. 6.

[2]*Ibid.*

court had been so dilatory, he was warm in his praise for its courteous treatment of him. It was giving the matter deliberation and inquiry, which made the conviction strong in Pinkney's mind that the way to an adjustment was prepared and smoothed. He was of the opinion that since the Neapolitan government had not denied the principle of law on which the United States based their demands, it had implicitly accepted it. That it had been prepared to protest the claims at the first mention of them was clear, but it had not ventured to do so. Pinkney saw in this certain success for his country, for once the principle was admitted, even implicitly, it could not be subverted by distinctions however ingenious in later negotiations.

Pinkney then went on to explain why he had decided not to accept the reply should it be sent to him after he had left Naples. He was apprehensive lest the Neapolitan government give him an answer which it would not care to do if he were present. To play the role of envoy to Naples after he had quit the city would be exceeding his authority, which might prove prejudicial to the interests of his country. To insure the careful control of the case by the State Department, and to afford the claimants room for private exertions, he had thought it better to separate himself completely from the affair with his departure from the city.

Pinkney's mission was causing much apprehension in England. Somehow the impression obtained that the Neapolitan government was yielding, but owing to poverty, at the suggestion of the American envoy, it was contemplating the cession of some island to the United States, possibly Lampedosa or one of the Lipari. Even the port of Syracuse was mentioned. When the news came that Pinkney had failed, a London newspaper expressed its relief in quite an unfriendly fashion:[1]

> It is not true, *and we are most happy it is not true* that the Island of Lampedosa has been ceded to the Americans towards whom the government has behaved with great spirit. The former have in fact gained nothing from their mission to Naples. The Americans are certainly a rising people, but it is rather premature, we think, for them to begin the reaction of colonizing Europe.

Niles Register reflected the common American attitude toward all things British at so early a period after the War.[2]

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[1] *Niles Register*, Vol. 12, p. 138.
[2] *Ibid.*, Vol. 2, p. 206.

> The London editors are quite alive to Mr. Pinkney's mission and give us many scraps of news about it, some of them insolent enough, but none to be relied upon for their truth.

A Neapolitan newspaper, evidently an official organ, thus praised the achievement of the King:[1]

> Mr. Pinkney has left. There is every reason to believe that all differences between the United States and our country are terminated. Our honor has received no stain, and it could receive none under a prince who is fully conscious of the dignity of his crown and the rank which his dynasty holds in Europe. Austria has shown upon the occasion that she was ready to support our just pretentions.

On his way north, Pinkney passed through the Papal States. He recounts an experience which was distinctive for an American minister of those days. Becoming acquainted with Cardinal Consalvi, Secretary of State, he succeeded in securing an audience with the Pope at Castello Gondolfo in the neighborhood of Albano, a few miles from Rome. In his report to Monroe, Pinkney described the audience at length. There is a significance to this item: "When talking of our country, the Pope did not omit to make me perceive that he was acquainted with its worth, and that he held it in the highest respect."[2]

When Pinkney arrived at St. Petersburg, January 7,1817, N.S., he made a startling discovery concerning his Neapolitan mission. His communication to John Quincy Adams, the new Secretary of State, reveals his surprise and indignation.[3]

> Notwithstanding the explicitness of my answer of the thirtieth of September of last year, I had scarcely quitted Naples when the Marquis di Circello sent after me his reply to my note of August 24. The obstacles which while I was present threatened to retard that reply for many a week, and even for months, disappeared with a marvellous rapidity after I had departed; for the reply passed me on the road to St. Petersburg, and arrived there long before me.
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> The Neapolitan minister at this court (to whom it was forwarded by the Marquis di Circello, for the

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[1] *Ibid.*, p. 307.

[2] Russia, Despatches, Vol. VI. Pinkney to Monroe, November 3, 1816.

[3] *Ibid.*, Pinkney to Adams, February 27, 1817.

> purpose of being delivered to me) manifested immediately upon my arrival here a very anxious desire that I should receive it. He even entreated me to do so, with such earnestness as it was not easy to resist. I refused, however, to have anything to do with his packet, and assigned as my reasons that I had ceased to have any right to meddle with the subjects of my late mission to his government.

Pinkney confessed to Secretary Adams that if he were sure that the answer was a favorable one, he would have received it. Its transmission so absurdly soon after his departure was an argument against it. The extremely polite conduct of the Neapolitan minister in St. Petersburg strengthened this conviction. Besides, certain newspapers were rather authoritatively describing the answer as a refusal. Under such circumstances Pinkney determined to abide by his former resolve to have nothing to do with it. The Neapolitan envoy at the court of the Czar, the Duke of Serra Capriola, acting on orders from Circello, simply plagued Pinkney to accept the communication. Pinkney replied with courtesy to his numerous persuasive notes, but firmly stood his ground. "My power to correspond with the government of the Kingdom of the Two Sicilies upon that subject, or otherwise to assume an agency in it, has ceased, and it can only be revived by the President of the United States."[1] The best he would do was to forward the packet unopened to Adams. This would compromise himself in no way.

Another discovery was in store for Pinkney. In May word was received that Circello being dubious about Pinkney's acceptance of the reply, and wishing to insure its transmission to Washington, had, three days after Pinkney had left Naples, forwarded a copy of the answer to the Neapolitan ambassador in Paris. This officer, the Marquis di Castelcicala, was to give it to Albert Gallatin, the American minister in the French capital, with a request that he despatch it to America. In answer to a verbal enquiry by Gallatin, Castelcicala had replied that he did not know whether the note had been directed to Mr. Pinkney at St. Petersburg or at any other place on the road. Gallatin in reporting the matter to his government, sagely conjectured: "It may be presumed that the Neapolitan government delayed that note in order to prevent the possibility of a reply; their intention in communicat-

[1] *Ibid.*, enclosure, Capriola to Pinkney, February 20, 1817.

ing it to me was to hasten its transmission to you."[1] Mr. Gallatin sent it to Secretary Monroe, November 19, 1816.

It is needless to describe Pinkney's indignation at this conduct. The whole affair had afforded him little consolation, but now he was filled with chagrin at the artifices the Neapolitan court had adopted to give a negative answer without at the same time arousing the resentment of the United States.

It succeeded. Outside the group of merchants involved, the reply did not gain the serious attention of the United States. If Pinkney had returned, the administration would have been more mindful, but as long as he stayed in Russia, the results of his temporary appointment in Naples were filed away for future consideration.[2] Mr. Monroe had started his first term: Congress and people, swept in the current of prosperity and good feeling, momentarily forgot the issue with Naples. The lovely city of the Campania was permitted a welcomed obscurity, and Circello smiled blandly at having frustrated the purpose of an American mission. His smile was the more broad and glowing when he reflected that he had dealt with a diplomat of Pinkney's calibre.

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[1]Despatches, France, Vol. 17. Gallatin to Monroe, November 19, 1816

[2]*The American Annual Register* scores this indecision in no uncertain terms. "The proper return for this violation of our national flag, after a suitable demand of redress, would have been reprisals or a bombardment of the Neapolitan capital, but yielding to the councils of timidity, no decisive steps were taken by the American government to enforce the claims." Vol. 1831–2, p. 19.

CHAPTER V

THE MISSION OF JOHN APPLETON

The official reply of Circello to Pinkney's demand of August 24, 1816, is worth our study since it reveals, better than anything else, the mind of the Neapolitan government on the subject of our claims. The case presented a legal difficulty about which international jurists had extensively written. In dealing with the question, we ought to appreciate the Italian viewpoint, realizing that there were some reasonable grounds on which indemnity could be refused. We will not be approaching the subject with that broadness of vision requisite for a correct judgment if we are entirely carried away by our sympathy for the injured American merchants. An authority like Senator Benton can be quoted to show the reluctance of Naples to pay. He uttered these sentiments long after the question had been settled, when he could afford to be candid without prejudicing the claims of his country.[1]

> . . . It was a case wherein the strongest prejudice and the most revolting repugnance had to be overcome. Murat had been shot by order of the Neapolitan King for attempting to recover the kingdom; he was deemed an usurper while he had it; the exiled royal family thought themselves sufficiently wronged by him in their own person without being made responsbile for his wrongs to others.

Although, materially, the document forms a part of the preceding chapter, it may well introduce this new topic. The mission of John Appleton was not of importance. To preserve the balance of the chapters, the answer of Naples may be studied here. The procedure is logical enough since the reply in question suggested in due season, this new mission.[2]

The note began with an apology for the delay, attributing it to the difficulty of gathering the records. It then reviewed the arguments advanced by the American minister before proceeding to demolish them. To assume that the claims of the United States against Murat reverted to King Ferdinand on his assumption of

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[1]Benton, *Thirty Years' View*, Vol. I, p. 604.

[2]Despatches, Russia, Vol. VI, Pinkney to Adams, February 27, 1817, enclosure.

the throne was to advance a principle subscribed to by publicists perhaps, but not by jurists. If King Ferdinand was to be held responsible for all the acts of injustice committed by the usurper, his regaining the throne was not a victory but a calamity. The United States having failed to obtain indemnity from the government of Murat advances its claim on his successor. This is in the nature of an appeal. How can an appeal be admitted, when in the first tribunal, the case was never tried. In spite of the vehement protests of the Consul-General of the United States, the government of Murat deigned no reply. Further, it is incorrect to assert that King Ferdinand had practically waived his rights to the throne of Naples. Reason postulates and international comity recognizes that a sovereign who has never ceased to be at war with the usurper, is still entitled to his possessions. The exigencies of war forced King Ferdinand to be absent from Naples. This fact in no wise impaired his sovereignty or made him responsible for the excesses of his enemy, privately committed for private gain. The people still looked to him as their lawful ruler in spite of Murat's ascendency, even going so far as to organize a revolt against the French usurper. The subjects of Ferdinand had not acquiesced in Murat's rapacious policy.

> If the inhabitants of the Kingdom of Naples could only have signified their wishes, they would undoubtedly have been for the maintenance of relations of justice and friendship with the Americans, the only nation, which by means of its neutrality, might provide a vent for the commodities accumulated through so many years in the kindgom, under the operation of the noted continental system of ruinous memory.
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> Everyone knows that the Neapolitan nation, prostrated by a foreign domination, was but the mournful spectator and first victim of the arbitrary acts which were daily committed. So far then from being able to indemnify others, it would be exceedingly fortunate if she could find means of compensating herself for the losses and immense injuries which she sustained during the occupation of the kingdom.

For these and other reasons, the Neapolitan government declared itself in *no way* responsible for the depredations. In this assumption, it went far beyond the attitude of any other European state which admitted some complicity.[1]

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[1]LYMAN, *Diplomacy of the United States*, p. 220–1. Boston, 1828.

The apathy of the American government alluded to at the end of the foregoing chapter, was not, of course, complete. The claims continued to be the subject of correspondence. In the absence of a regular minister, infrequent communications were carried on through the medium of the United States consul. This method of doing business is rarely productive of results; hence we are not surprised to learn that the question remained unsolved as long as this policy was adhered to. Hammett was a persistent and resourceful plaintiff, but he never succeeded in holding the serious attention of the Bourbon court, for he was not dressed in sufficiently brilliant diplomatic raiment.

Washington stirred itself a little when Pinkney finally returned from Russia in 1818.[1] On January 30, 1818, Samuel Smith, of Maryland, sponsored a resolution requesting the President to transmit to the House of Representatives "such information concerning the claims of the United States against Naples that might be communicated without injury to the public interests."[2] President Monroe complied, February 28, 1818.[3] Nothing further was done, however, beyond inserting the extracts of the correspondence in the *Annals of Congress*. The merchants kept sending in their protests, but could not succeed in inducing more vigorous action. Pinkney became a Senator from his state, January 4, 1820, thereby reviving a little hope that he would do something for them. Pinkney was anxious enough to see the Neapolitan case settled, but various other things claimed his care. He died in February, 1822. Besides, events had begun to move in Naples that rendered a fresh demand then inadvisable.

All Italy was at that time groaning under the despotic rule of its multitudinous sovereigns. The Bourbon King of Naples, Ferdinand I, especially had proved himself obnoxious not only by his autocratic tendencies, but also by his close attachment to hated Austria. The Carbonari, who during Murat's sway in Naples had organized to free themselves from French rule, and whom accordingly, Ferdinand had encouraged and helped, now began their machinations against him. Local movements occurred from 1818 to 1820, which were easily suppresesed. A serious outbreak came July 2, 1820, started by Lieutenant Michael Morelli and a priest, Louis Minichini. Later, the celebrated General William

[1]He had been in St. Petersburg only six months when he asked to be recalled, alleging poorness of health and insupportable expenses.

[2]*Annals*, 15th Congress, 1st Session, p. 832.

[3]RICHARDSON, *op. cit.*, Vol. 2, p. 29.

Pepe took charge. Ferdinand was forced to grant a constitution, July 13, in spite of his secret agreement with Austria. Austria, though, intended to hold him to his covenant, so on July 25, Metternich announced that he would use force if necessary to repress the revolutionists. France won over the Czar to request that a Congress meet to settle the question. The gathering at Troppau in October failed to find a solution. The powers were willing to grant the constitution, but as they were not united, Austria succeeded in withholding their sentence. An international conference was then convoked at Laibach, which Ferdinand was permitted to attend after solemnly promising his subjects to support the constitution. Once out of his kingdom, Ferdinand fell completely under the sway of Austria, thereby consenting to revoke his grant. All Europe was astounded at this treachery of the aged King. The Neapolitan parliament, however, decided to resist with an armed force. February 4, 1821, its army met the Austrian invaders under Nugent, only to be hopelessly defeated. Ferdinand reëntered Naples May 15, 1821, as absolute and autocratic as ever.[1]

Metternich writing to Stadion, March 10, 1821, revealed why the United States could not then reasonably press their claims on Naples.[2]

> The Neapolitan revolution has utterly destroyed the finances of the kingdom. It has been brought about in part by the blind fiscal system of the Marquis de Medici; seeing in the State administration only a treasury, he taxed the provinces far beyond what he ought to have done, and by overstraining his bow, has broken it.

Ferdinand's character likewise made futile another attempt. Nothing could be expected from the harsh old King, whose chief concern was to keep his people the miserable victims of an antiquated absolutism. So the United States did not futher press the

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[1] *Memoirs of General Pepe*, Vol. I, pp. 278–468. Paris, 1847. STILLMAN, *The Union of Italy*, pp. 57–63. Cambridge, E., 1899. From Laibach went forth the circular in which the world was told that henceforth "all useful and necessary changes in the legislature and administration of states must emanate alone from the free will, the reflecting and enlightening impulses of those whom God has rendered responsible for Power." This concerted effort to exterminate popular government contributed to the promulgation of the American Monroe Doctrine. Cf. *Cambridge Modern History*, Vol. VII, p. 368. New York and London, 1906.

[2] *Memoirs of Prince Metternich*, Vol. II, p. 365. New York, 1881.

claims, but waited for the day when they could treat with a more agreeable monarch.

Ferdinand died of apoplexy January 4, 1825, when his son, Francis I, succeeded. This fact, together with the inauguration of a New England President two months later, again opened the question of indemnity.[1] John Quincy Adams felt enough sympathy for the injured merchants of his section to make another attempt to secure reparation. John J. Appleton, of Massachusetts, secretary of the legation in Madrid, had returned to America in February, 1825, and was awaiting further instructions from the State Department.[2] On April 12, Henry Clay, who had become Secretary of State, informed him that the President desired to send him to Naples in the capacity of special agent for the settlement of the claims. The instructions given him are largely similar to those given to Pinkney in 1816. He was told that if he reported likely prospects of success, a commission would be sent him as chargé d'affaires.

Early October found Appleton established in Naples, ready to resume the negotiations where Pinkney had left off. Business was to be conducted with a new ruler, a new ministry and a new foreign secretary. Yet for all that, Naples was much the same as when Pinkney had arrived. Francis I was a true Bourbon from whom no change in the tyranny of the government could be expected; the new ministry was as lethargic as ever, de Medici, the foreign secretary, as evasive and subtle as Circello.

Appleton early discovered that Hammett had been correct in thinking that the opportunity was rather favorable. "There was a disposition here upon my arrival for claims to be settled, but this was not from a sense of justice, but from a complete misconception of the means which we were to employ to enforce our claims, above all, from ignorance, uncertainty or error in regard to our relations with France."[3]

The impression obtained that the United States would now make a serious effort to collect indemnity. Accordingly an element of fear crept into the council chamber of state. The rumor that the American naval squadron in the Meditreranean had been

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[1]Alexander Hammett had recently written from Naples saying that there was now a better chance of success.

[2]John Quincy Adams reveals much about Appleton's appointment in his *Memoirs*, Vol. VI. Philadelphia, 1877. He was President-elect at the time and still Secretary of State.

[3]Despatches, Sweden, Vol. 5. Appleton to Clay, February 12, 1826.

notably increased went to confirm this apprehension. Anxiety seized the court that it was the design of the United States to secure justice by force. "The King went so far as to say 'He would have no noise' and that he would personally make any sacrifice to avert reprisals upon the commerce of the country, already too reduced to bear a new blow."[1] To this feeling of alarm, Appleton ascribed the courtesies shown him by de Medici.

The first interview between these two officials had hopeful signs. The American agent found that de Medici was willing to discuss amicably the subject of the claims, and although he betrayed a strong opposition to admitting the abstract principle of responsibility for the acts of Murat, he promised to see whether the council of state would give him a basis on which to negotiate. In a second interview, October 7, the business was seriously entered into by the two statesmen. De Medici had not secured from his government a basis of negotiations; he reiterated, instead, the conviction that the present regime could not be held responsible for the unlawful acts of Joachim Murat, especially since the property plundered had been considered and employed by the usurper as his private possession. He ended by saying that since the United States had dropped the question of indemnity with France on the occasion of the conclusion of a treaty of commerce, the claims against Naples should likewise be abandoned. Naples was desirous of entering into a trade agreement with the United States. This to its mind would be a partial or total extinguishment of the claims existing against its government.

Appleton assured de Medici that the United States had not dropped the claims against France. The Neapolitan minister was astounded at this statement and "concluded the conference by saying that the council of state had expressed a desire to know before they gave him a basis, what France had done in relation to our claims, and that, as it now appeared that his impressions were incorrect, he would write to the King's ambassador in Paris for information on the subject, and that our conference would be resumed when he had received his answer."[2] Appleton pointed out that such a step was unnecessary since he was in possession of all the papers concerning the recent relations of the United States and France on the subject of indemnity and a commercial convention. This further surprised de Medici. He expressed a willingness to see the documents, but nevertheless persevered in

[1] *Ibid.*

[2] Despatches, Sweden, Vol. V, Appleton to Clay, February 12, 1826.

his intention of writing to the Neapolitan ambassador in Paris for confirmation. The same day Appleton sent de Medici copies of the correspondence between Gallatin and the French government, pointing out particularly Villele's note of the sixth of November, 1822, attesting that the "claims of the commercial convention concluded between France and the United States, but that on the contrary, the government of France proposed to enter into a definite arrangement which should comprise on one side the said claims, and on the other, those which France produced against the United States."[1]

In answer to this, de Medici sent Appleton a disconsolate note, saying that he had seen in Villele's letter nothing but general expressions which far from gave it any precise indication of what Appleton had maintained were the sentiments of the French government. He promised, however, to ask the Neapolitan, ambassador in Paris for full information, on the receipt of which he would confer anew with Appleton.

Two days later, Appleton sent de Medici a memorandum of the ships captured, with an opinion as to their value. This agreed quite exactly with the *Conto aparte* that appeared on the books of the Neapolitan treasury. Appleton sought this as a means of continuing the conference, but de Medici was too cautious. Although he continued to receive the American minister with great friendship, he always declined entering upon the subject of the claims until word from the ambassador in Paris could be received.

November 27, on information that de Medici had at last heard from Castelcicala, the Neapolitan ambassador in Paris, Appleton called at his house for the final answer to the demands of the United States. The reply was disappointing. On Castelcicala's recommendation de Medici and his ministry had resolved to refuse payment. "They did not think it proper that they should now in any way *prejudge* the question with him, and that they should adhere strictly to the note originally sent to Pinkney, October 18, 1816.[2] Their yielding at such a moment would embarrass France.

The chagrined Appleton then asked that this statement be put into writing, so that he could transmit it to his government as the official answer of the Neaploitan court. De Medici complied with this request in the course of the folllowng day.[3]

Appleton's time was not restricted as Pinkney's had been;

[1] *Ibid.*,enclosure, Appleton to Medici, October 7, 1825.
[2] *Ibid.*
[3] *Ibid.*

therefore he remained in Naples in the hope that the Bourbon court would change its mind. No further efforts, however, accomplished this result. He sought to obtain from de Medici an official account of the sales of the cargoes and asked whether they would be willing to surrender the few American vessels still in use as warships, but was told that no answer to these questions would be given until the American government had replied to the recent note. Appleton learned another important fact, namely, that while refusing further conferences with himself, the Neapolitan government did not intend to close the door to an amicable settlement. It was its intention, when the United States would resume the negotiations, to refer the matter to a *third power*.

Appleton did not think it proper to revive official communication because he felt that his inferior diplomatic capacity did not give him such powers. Even if it did, he would not enter upon so delicate a question without first being minutely instructed from Washington.

In his report to Secretary Clay, after describing the efforts he had made to accomplish his mission, Appleton advanced an interesting conclusion he had arrived at after long study, for the successful handling of the problem.[1]

> The more I have looked into the foundation of law and fact of these rights, the more I have been convinced of their validity. Yet this conviction does not leave me any hope that they can be established by the mere force of reason. Nothing of importance will be effected until a negotiator can come here, armed with the fixed purpose of his government to redress itself, if in a given time, an appeal to the principles of justice prove ineffectual. Their maxim is that "there is always time to pay." The character of this King and nation, will not, however, render an actual resort to force necessary. The threat will be all sufficient, if they see that its execution is at hand. It was in this very bay of Naples, that Commodore Martin in 1740, and Commodore Campbell took a firmer pose and firmer men than those who now govern the councils of Naples—if there are circumstances which prevent our offering to this government the alternative of justice or reprisals. . . . You require to be served here by one who can speak with more authority than I can. There are resources of talent, subtility and skill, which will furnish ample employment to our most gifted and accomplished

[1] *Ibid.*

> statesmen. It is not just that the credit of the country and of the administration should be endangered by reposing in hands conscious of inability, to do it entire justice. I ask you therefore, to consider me as cheerfully abandoning any pretensions, which your letter might have encouraged, and as fully compensated for this proof of my attachment to the administration, if I retain its confidence in some other post of less responsibility.

It was not till August that Appleton received a response from Washington. During the interval, he had lost no opportunity of impressing the Neapolitan government with the fact that the claims of the United States, instead of becoming weakened, gained new strength with every postponement and that Naples would only have to pay the more the longer it deferred payment. This he did in an informal way since the tenor of de Medici's note of November 28, debarred him from any further official attempt to arrive at a settlement.

An instruction, bearing the date of June 8, informed him that he had been appointed chargé to Stockholm, for which reason he was at once to terminate his agency. Before leaving Naples, Appleton made two attempts to see de Medici, but failed. De Medici was out of town. August 18, he indited a note, saying that he was leaving for the Swedish capital, but warning Naples that the President of the United States did not by any means consider the issue closed. Giraldi, the Director General of the Department of Foreign Affairs, gave Appleton his passports, telling him at the same time that de Medici would reply to his note of August 18 as soon as he returned. Appleton told Giraldi that he was leaving for Leghorn on the twenty-first. Giraldi promised that de Medici's letter would be sent thither.

Appleton proceeded to Leghorn, but receive no word. He then wrote back to Hammett, asking him to apply for de Medici's answer and forward it to Washington. It would be purposeless to have it follow him to Stockholm, since in any event its ultimate destination was Washington, and much time would thus be lost. In spite of this precaution, the reply did follow him to Stockholm. November 5, 1826, he transmitted it to Clay. De Medici evidently

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[1]Shortly after the receipt of this despatch in Washington, the House of Representatives, May 19, 1826, passed a resolution directing the Secretary of State to submit a "Schedule of the claims of the American citizens against the governments of France, Naples, Holland and Denmark, which may be on file in the Department of State." Clay, as already referred to, transmitted it on January 30, 1827. *American State Papers*, VI, 384.

was not pleased at Appleton's warning concerning the President's attitude, for after congratulating him on his promotion, he suavely added that the government of his Majesty would welcome any opportunity of arriving at a perfect understanding with the American President.

Thus ended the second attempt of the United States to secure reparation for the damage done to their commerce. Naples had scored again. It was another disappointment to the merchants and another item to make the administration of John Quincy Adams more unpopular. In his first annual message, December 6, 1825, he had assured the nation that indemnity would be vigorously pursued. Now he had to confess his failure. Perhaps he would have adopted the strong measures suggested by Appleton, but there were the Jackson men whose continual criticism of, and consistent opposition to his wisest measures were binding him hand and foot. Their provoking cry of "Bargain and Corruption," so irreconcilable with the integrity of this, one of the most learned and upright of our Presidents, made it very embarassing for Clay and himself to pursue a foreign policy of their own. We are not surprised then to find the question of indemnity with Naples again relegated to obscurity. Five years later, Andrew Jackson, who by his opposition to Adams largely contributed to this obscurity, was destined to revive the issue and give it its belated adjustment.

CHAPTER VI

THE MISSION OF JOHN NELSON

Old Hickory became the people's President March 4, 1829, giving a new trend to the government. Hitherto men of culture and learning had guided the ship of state: now the bark was to be piloted by a man of common stock, whose schoolroom had been the battlefield and whose mentor, the stern realities of frontier life. His inauguration brought misgivings to conservative minds. There was no one in America who did not admire him for his military achievements, but many felt that the Presidency was an office far beyond his attainments. These prepared themselves to witness an administration that would tarnish the glory which had accrued from the Virginia and the truer New England dynasties.

On the contrary, it was given them to witness an administration that stands almost unparalleled in our history for the honor it brought to the nation. Jackson's attainments were not so commonplace as is often assumed. Even if personally he did not possess all the qualities desired in a President, he did command them as chief of one of the ablest groups of advisers ever assembled in our history. At any rate, what the polished Madison and the scholarly Adams did not accomplish with regard to Naples, this stern old self-taught warrior achieved.

Jackson directed his attention to Naples after he had pressed France for payment of the bill standing against her for reprisals under Napoleon. Rives, whom he had sent to Paris, succeeded after much effort in inducing Louis Philippe to agree to pay twenty-five million francs for all our claims.[1] Having succeeded with France (though France did not pay immediately but only after threats of reprisals on her commerce), Jackson reopened the question of the Neapolitan indemnity. A new King then ruled Naples. Francis I had died November 8, 1830, to be succeeded by his son Ferdinand II. It was thought that this new monarch would be better disposed to listen to the claims of the United States, though this did not greatly concern Jackson. He was going to see the question settled no matter how King Ferdinand felt about it.

[1]Reparations in this case were mutual. The treaty signed July 4, 1831, provided that the United States reduce its duties on French wines and pay France 1,500,000 francs for failure to safeguard her property in Louisiana in violation of the purchase treaty.

In October, 1831, Jackson appointed John Nelson, of Frederick, Maryland, envoy extraordinary and minister plenipotentiary to Naples with explicit orders to push vigorously for a settlement.[1] There is no mistaking his tone in the instructions formally handed to Nelson, October 27, 1831.[2] The envoy was to make a strong and decisive attempt to procure a just indemnity. The time seemed very opportune, for a new King was on the throne, while the recent submission of France to the demands of the United States had removed one of the chief objections of Naples. In order to interest the Bourbon court from the start, Nelson was to describe the immense advantages which a commercial treaty with the United States would bring to Naples. The wines, oil, silk and works of art of the kingdom would find a ready market with the American people, while the manufactures of the new republic would give greater comfort and productivity to Neapolitans. An exchange of these commodities would be gainful to both countries. Nelson was to make it clear, however, that no commercial understanding was possible until the question of indemnity had received settlement. Naples had to accept as an indispensable preliminary to economic betterment, full responsibility for the outrages once committed on American merchants. Should Naples again fail to offer satisfaction, it could expect a prompt retaliation by Congress. The President could be relied upon to execute promptly whatever measures that body might deem it expedient to propose for vindicating the honor of the American people. A time limit was even suggested. Naples would be required to give Nelson an answer by March 1, so that it could be transmitted to Congress before its adjournment in May. For this purpose, a ship of the Mediterranean squadron was to be placed at Nelson's disposal. "The period for procrastination is past; every diplomatic evasion of the result will be considered as a denial."[3]

If Naples showed a willingness to pay, Nelson could adopt two methods of procedure. The first, that of a mixed commission, like the one which functioned under the convention with Great Britain concerning the Russian award, and prior to that, under the Jay Treaty. The second would be to accept a sum in gross to be distributed among the claimants by a commission created by Congress. Since the first would be attended with much inconvenience, owing to differences in language and temperament,

[1]The Senate confirmed Nelson January 7, 1832.

[2]Instructions, Vol. 13. Livingston to Nelson.

[3]*Ibid.*

the second method was to be preferred. The instructions also enumerated the particular items for which indemnity was to be sought. Nelson was to demand an interest of twenty years on the original loss and to require the payment of the sum expended by the United States for the return of the stranded seamen. "This is to be insisted on as a point of honor, from which no deduction is to be made."[1]

Jackson took the occasion of his third annual message to Congress to tell the nation of Nelson's mission. He dedicated a lengthy paragraph to the end of assuring Congress that he would be able before it adjourned to announce that a settlement had been reached.[2]

Nelson arrived in Naples, January 19, 1832. The new minister of Foreign Affairs, the Prince of Cassaro, whom he officially met on the twenty-fifth, showed him every deference. On Sunday, the twenty-ninth, Nelson was presented to the King, "by whom on that day, he was received with much *apparent* cordiality."[3] The *American Annual Register* for 1833, p. 20, throws out a suggestion to explain this. The ominous name of Nelson for Naples was fraught with recollections of bombarded capitals and exacted indemnities. The great English admiral had been a terror in the Mediterranean as long as Murat and Napoleon were in power.

On Tuesday following, Nelson sent to Cassaro a lengthy official note explaining the object of his mission. Suiting his logic to his audience, he began calling attention to the tremendous advantages which Naples would derive from a treaty of commerce with the United States. He carefully followed the language of his instructions on this point, but concluded it with a salesman-like persuasiveness all his own by referring to the increasing need of the thirteen million inhabitants of the United States for the products of Naples. Having dangled this prize before Cassaro's eyes with a consequent excitement of desire, Nelson then stated the price. Naples had to agree to the indemnity as a necessary preliminary to a discussion of a commercial treaty. On this point, the President of the United States was inflexible. Nelson assured Cassaro that Jackson had pledged his word to the American people that they would be indemnified for their losses in Naples. He mentioned the recent submission of France, hinting thereby that Naples might advantageously follow her example.

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[1] *Ibid.*
[2] RICHARDSON, *op. cit.*, Vol. II, p. 550.
[3] Naples, Despatches, Nelson to Livingston, January 31, 1832.

He went on to convince Cassaro that the President viewed the situation as involving the honor and dignity of the United States, thereby feeling it to be a duty of primary and indispensable obligation to secure reparation. He but briefly touched on the history of the case since it was too well known to warrant a detailed exposition. Then he plunged into a hurried refutation of the Neapolitan interpretation of certain principles of international law, on the strength of which, indemnity had thus far been refused. His arguments largely resemble the ones Pinkney had advanced in 1816. Stress was laid on the accepted principle of international law that an actual government is reputed the legitimate government for all practical purposes. The merchants following this common-sense view, had seen in Murat a legitimate sovereign, whose word hitherto inviolable, could be given complete credence. To assert that people must look beyond the acknowledged possessor of a throne, to investigate if his right to it be legitimate, is to impose an impossible burden on them. It would arrest enterprise, destroy trade, disturb the tranquillity of nations and subvert the right of a people to revolt against tyranny.

Cassaro immediately submitted this note to his sovereign, who in turn directed it to be handed to the Council of State for its consideration. This grave assembly thereupon began to give it the benefit of its leisurely perusal. So leisurely was it, that Nelson, having received neither an answer nor a receipt for it in ten days' time, addressed a note to Cassaro asking for a conference. Word came February 11, appointing an hour on the same day. Cassaro opened, apologizing for the inconvenience caused, but remarking that he was powerless to do anything as long as the Council of State held the note. However, he gladly gave a receipt. Nelson took the occasion to remind the minister that the mood of the United States was for instant action. He mentioned that in 1825 Naples had virtually promised to pay if France paid; since France had now agreed to do so, Naples should have no difficulty in settling. Cassaro replied that the promise had been verbal at best, hence not binding on Naples. Nelson calmly assured the Prince that this was not entirely true; that he was in possession of de Medici's note of October 13 to Appleton, which together with the verbal conversation painstakingly recorded by Appleton and sent to Washington, would make a strong case against Naples. Cassaro was a little ruffled at this and asked to see the letter. Nelson gladly promised to send it, together with a copy of the convention of indemnity with France. Feeling that the delay of

the Neapolitan government was due to financial embarrassments, Nelson hinted to Cassaro that the United States would be generous in deciding intervals of payment. Cassaro neither admitted nor denied the situation, but thanked Nelson for being so considerate. He then enquired about the prospects of a commercial treaty, but Nelson pointedly remarked that there could be no discussion of a treaty of commerce until the question of indemnity had been settled. In closing the interview, Cassaro promised that he would use his influence to secure an early reply from the Council.[1]

A week passed without further developments. Casually meet-meeting Cassaro at the apartments of the King, February 18, Nelson reminded him of his promise. The Prince stammered that the Council was to blame, but that an answer would surely be forthcoming in two days. The two days became six. On the twenty-fourth, Nelson received a note from Cassaro (dated the twenty-second), acknowledging receipt of the packet of the thirteenth, but saying nothing about the official note of January 31. This convinced Nelson that the Neapolitan government was indisposed to do anything in the matter, but that success depended entirely on the pressure Washington could exert on a court so dilatory. On the twenty-seventh, he wrote a sharp note, warning Cassaro that the President would take strong measures to redeem his pledge to the American people; that Congress was in session, ready either to ratify a treaty or to authorize reprisals.

March came and still no reply. Then Nelson unexpectedly learned that Cassaro had left for Palermo where he would remain a long time. The obvious inference was that he wanted to avoid Nelson. In fact, the convicition grew on the American envoy that Naples wanted to withhold an answer until Congress adjourned. Accordingly he resolved to acquaint Congress immediately with the disappointing conduct of the Bourbon court so that it could take action. As luck would have it, he presently received a communication from Commodore Biddle, informing him that he was sending the *Ontario* to Naples to be at his disposal for the transmission of despatches to Washington.

To make finally sure of Naples' attitude, before starting on his despatch to Washington, he indited, March 9, a note to the Duke of Gualtieri, acting secretary of Foreign Affairs in Cassaro's absence, telling him that the *Ontario* was due in Naples that night, that he was about to send her immediately to America with a

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[1]Naples, Despatches, Nelson to Livingston, February 13, 1832.

report of his mission. Would he tell his government that Naples refused to pay or that she agreed to the indemnity?

Gualtieri replied the same day, saying that he could give no answer, but that "perhaps a reply would be sent before Cassaro's return." This "perhaps" did not soothe Nelson, so he promptly started to tell Edward Livingston, the Secretary of State under Jackson, that the only remedy was force. His private letter to the Secretary bristles with aggressiveness. It merits quoting, at least in extract, for it contains many interesting items.[1]

> The most effective means of bringing the negotiation to a close within any *reasonable* time will be to satisfy His Majesty of the power of the President to resort to measures of coercion if redress is longer withheld. Let them have a show of our naval power, if by a constituted day they have not given us a satisfactory answer. Otherwise these negotiations will be as unsuccessful as those of 1816 and 1825.
>
> The revenues of Naples are ample. They can pay the indemnity. The debt of the government is large, but its means are more than sufficient. Twenty-five million ducats is the estimated amount of its clear income. Its debt is nearly one hundred million, with interest at five per cent. Its stock is worth about seventy-eight.
>
> The military force of the government is enormously disproportionate to its means or necessities. It now amounts to between forty and fifty thousand men who are represented to be good soldiers, upon parade, but very inefficient upon a field of conflict. About one-sixth of this force is made up of Swiss Regiments.
>
> The Scilian navy is very inconsiderable. Two men of war, one of which is unseaworthy, and a few frigates badly equipped constitute the whole navy of the kingdom. The commerce of the Two Sicilies might be completely cut up by the ordinary force of the United States in the Mediterranean.

The *Ontario* left March 13 with the message. Nelson felt that this despatch was so important that he decided to send a duplicate by another route. It would be possible that a communication sent as late as the twentieth by way of Havre might even anticipate the arrival of the *Ontario*.

While waiting for further instructions from Washington, Nelson determined to secure a positive answer to his note of January 31.

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[1]Naples Despatches, Vol. I. Nelson to Livingston, March 12, 1832, private.

Hearing that Gardener, the American consul at Palermo, was leaving soon for the States, he hurriedly wrote to Cassaro, who had by this time returned to Naples, that it would be a good opportunity to stay any hostile action by Congress by sending with Gardener assurances that the indemnity would be paid. Cassaro replied March 16 in time for Gardener to carry the message. It was merely another evasive answer, one that, if any, would precipitate stern action by Congress. On March 31, Nelson wrote his fourth despatch to Livingston. This merely concerned items of salary and expenses, for which reason, it had a sequel that forms a necessary part of the negotiation.

Another interview with Cassaro proved as unsatisfactory as the former. Responsibility for Murat's acts was again disavowed: poverty was pleaded, while a request was made to negotiate first a treaty of commerce. The question of the American ships still held by Naples came up. Nelson chided the minister that his government had not yet restored these to their owners. Cassaro coolly replied that the United States had never formally asked for them. He assured Nelson, however, that they would be gladly returned if they were wanted. In conclusion, Nelson was told that the Council was about to pronounce on his official note of January 31.[1]

After a delay, which sorely tried Nelson's patience, the reply came at last, June 2. It was of a character that more severely tested his good nature. It stated that His Majesty had not expected to see the old controversy revived, since in his estimation, unanswerable reasons for the irresponsibility of his court had already been twice given. Yet, as a mark of his friendliness, he would deign to examine the question anew. Then the note attacked Nelson's interpretation of the Law of Nations involved. Nelson had said in his demands of January 31 that his countrymen could not be expected to look beyond the acknowledged power. But the acknowledged ruler had been Ferdinand IV: Murat had never been recognized by the legitimists of Europe as the sovereign of Naples. The American merchants then had wilfully accepted the worthless pledge of an usurper, thus making their consequent losses results of their own indiscretion. This was especially true since they had started to send their vessels when Murat had been on the throne scarcely a year. Normally, no business man would have ventured to export his merchandise under the circumstances.

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[1]Naples, Despatches, Vol. I. Nelson to Livingston, May 16, 1832.

Trade happened to be dull, however, so they took the chance. Luck was against them: they gambled and lost. Not content with this first folly, they kept sending their ships to Naples during an interval of two years. Why should Naples indemnify them for property which they had practically thrown away?

Cassaro then attempted to show that Murat had not been accorded full sovereign powers by Napoleon. The Decree of July 15, 1808, invested Joachim with the title of King of Naples, with the provision that the dignity should pass on in the male line, in failure of which, the crown should revert to Napoleon and to his heirs. This arrangement, in the eyes of Cassaro, made Murat nothing but a tool in the hands of the inexorable Napoleon, and for Napoleon's acts, the Bourbons of Italy could in no way be held accountable.

Nelson's chagrin at this answer can be better imagined than described. He thought immediately of demanding his passports and bringing to Washington a report that would sting the President to instant action. After the first excitement, however, he reflected that the answer of the President to his despatch of March 12 must now be on its way to himself, so he decided to wait for it. This resolved upon, he sat down to pen at leisure, a rejoinder that would effectually demolish all the arguments which Neapolitan skill had hitherto adopted to thwart the sovereign will of the United States. Into it he poured all his pent-up feelings. Evidently his capacity for such was huge, for his reply ran into ninety-three closely written folio pages. It would be extremely interesting to quote this remarkable document in full, but here we must be content with a bare summary.[1]

Nelson's exordium was hardly Ciceronian. He bluntly reminded Cassaro that the controversy was old simply on account of Naples' crass negligence. Then he went into details of the history of the claims, from the time Ferdinand fled to Sicily in 1805 to his restoration in 1815. He first exonerated the American merchants from folly on the score that Murat had by name excepted them from liability of confiscation in his letter of July 1, 1809, to Frederick Degan. Their confidence in Murat's pledge had been reasonable, since he had previously not molested them. Then he went at length to prove that Murat was a recognized fully-empowered sovereign of a permanent European state. He had started to exercise rights of sovereignty from the moment of

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[1] *Ibid.*, Nelson to Cassaro, June 29, 1832, enclosure.

his accession; he had levied taxes, ordered improvements, executed the law. The Neapolitan people had acquiesced in all this. There was no open rebellion, no serious molestation. Murat had reigned not as a temporary military governor of a conquered province, as Cassaro had asserted, but as the supreme ruler of a well-ordered, enduring civil government.

> The very circumstances of the seizures prove this. *The Decrees of confiscation were promulgated by the authority and in the name of Joachim I, and authenticated by his ministers: and the sales directed by his arbitrary edicts were conducted and consummated by the officers of the Kingdom of Naples.* They were therefore, the acts of its government, for which, upon the plainest principles, it was responsible. Murat's government was not a fief of Napoleon's. It was administered by different officers and laws, and these were enforced by its own powers. *Naples was governed as a republican kingdom, no matter by whom and the powers of its government were executed to the prejudice of American merchants, so that the nation is responsible for its acts and bound to redress the injuries it has inflicted.*

Concerning the succession, that was merely a precaution to keep the crown in the possession of the House of Bonaparte, proving no dependence in rule. The settlement imposed no restriction upon his power, no limitations upon his authority. Witness, Murat held his power after Napoleon fell: all Europe had understood that the governments of *Napoleon's creation were free*, to perdure or fall as chance would have it in each individual case.

Then Nelson went into a disquisition on the philosophy of governments. It is interesting to follow his cogent legal reasoning: A state is a moral person that endures and always the legitimate government of a state is its *actual* government. During Ferdinand's absence from Naples, if the sole and actual government of Murat had not been the legitimate government, then Naples had no government for a period of seven years—an untenable proposition in law. Was the kingdom of Naples dead in that interval? International jurists are clear that it could not be. I refer you to Vattel's *Law of Nations*, Book I, chap. IV, sect. 40, and Book II, chap. XVII, sect. 324.[1] Another cardinal principle in law is that a succeeding regime is bound by all the

[1]The Carnegie Institution has published Vattel's *Law of Nations* in English. Washington, 1916.

obligations entered into by the former. Bacon and Puffendorf are sufficient authorities for this. In the latter's invaluable treatise on the rights and nature of nations, Book VIII, chap. XII, sect. 2, he uses the following decisive language:

> De ce que nous venons de dire, il paroît comment en doit resoudre une question proposée par Aristote, savoir, si lorsqu'un Peuple passe du gouvernnement absolu d'un monarque, ou d'une Oligarchie au gouvernnement populaire, l'Etat ainsi devenu libre, doit garder des Traites, les contracts et les autres actes des Roi ou des Grands, sous la domination desquel il etoît auparavant.

The Bourbons, then, on regaining the throne of Naples, were bound by all the acts of their predecessor. They gladly accepted the many benefits of Murat's reign (a case in point, the confiscated ships); they should be willing to take its burdens. We must not confine our attention too much on individuals, but on the government that ruled. Murat was arbitrarily chosen King, but his kingdom was a definite actual enduring institution. That kingdom or government, not Murat, committed a wrong on American citizens. America is not asking Ferdinand II to indemnify the injured merchants, but the Neapolitan government, which in the eyes of the world, is the same now as it was twenty years ago. America is firmly convinced of the justice of her claims, hence she will take measures to secure her rights. Nor will she be content with half payment. Your gesture of ordering our ships now in your service returned, does not impress us.

Having so well and so extensively relieved his feelings, Nelson proceeded to spend an enjoyable rest of four days in the quiet of his hotel,contemplating Cassaro's reaction to his note. The eve of Independence Day, overcome by curiosity, he sauntered over to the Foreign Office, where Casaro received him politely. In reply to the inquiry about the note, he informed the American that it had not yet been given to the King. Clerks were busily at work translating it. Meanwhile, the King had left Naples for his summer villa in Abbruzzi, intending to return the first week of August. At that time, an answer would positively be given. Cassaro then asked permission to speak informally. "Would the United States accept in payment works of art?" Naples, he said, might after a time agree to an indemnity, but it had no money. Nelson was taken back at this suggestion, especially since he felt that Naples could pay in cash. He answered that

he was uninstructed on this point, so until he heard from Washington, he could agree to no such terms. The interview ended very cordially, since both saw that the question was now rapidly approaching solution.[1]

Nelson then settled down to make the best of a summer in Naples while awaiting the mandate of the President and the pleasure of His Sicilian Majesty. It was a monotonous and uncomfortable wait. Fortunately, after a fortnight, the dullness of the situation was relieved by the appearance of vessels flying the Stars and Stripes. On July 25, the *Brandywine* and *Constellation*, frigates of the Mediterranean Squadron, Captain James Biddle, arrived at Naples from Port Mahon. Immediately, the whole city was thrown into confusion. The impression obtained from the sight of these two grim leviathans that the city was about to be attacked for its refusal to pay the indemnity. The King was hurriedly informed. He returned from Abruzzi, July 29, giving orders for the defense of the city. To the surprise of everyone, though, the *Constellation* without waiting for pratique sailed away the same day, bound for the Levant. The news slowly circulated that the ships had come on no warlike mission. Thereupon Ferdinand contentedly returned to the cool shades of Abruzzi, while the summer's drowsiness again settled down on Naples.

Nelson found out from Biddle that he would proceed to Port Mahon in a fortnight to turn over the command of the Mediterranean Squadron to Commodore Patterson. Patterson had been appointed to relive him June 23, so it could be presumed he was now on his way to the rendezvous mentioned.[3] Likely carrying despatches for Nelson, he would come to Naples after assuming command. This piece of information immensely cheered Nelson. He told Biddle of the progress of the negotiations, suggesting to him in conclusion, that Patterson be asked to come to Naples with all his force.[4]

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[1]All the despatches which Nelson wrote after the *Ontario* had left were not sent to Livingston until September 15 on account of lack of conveyance.

[2]Besides the ships mentioned, the Mediterranean Squadron at this time was composed of the frigate *Java*, with the sloops of war *Ontario*, *Boston*, *Concord* and *Fairfield*. *American State Papers*, *Naval Affairs*, Vol. III, p. 790.

[3]Officers, Ships of War, No. 20, Woodbury to Patterson, June 23, 1832. Biddle turned over the command of the Squadron to Patterson at Port Mahon August 26. Captains Letters, Patterson to Woodbury, August 27, 1832.

[4]Naples, Despatches, Vol. I. Nelson to Livingston, September 3, 1832, private.

Biddle weighed anchor August 13 while Nelson resumed the quiet role of a watchful waiter. What especially provoked him was his lack of news concerning happenings in America. Nelson's peevishness at his isolation in a sultry, drowsy city was all the more natural since it was the summer of a Presidential year. Being an ardent Jackson man he was keenly desirous of hearing of his renomination. The leisure he had, if not the enjoyment of it, permitted him to turn his attention to the matter of a commercial treaty. He had asked Livingston for the latest tariff legislation. He now proposed to acquaint himself with the Neapolitan side of it, so that if the indemnity were settled, he could intelligently proceed to a convention of commerce which would be of mutual benefit. Accordingly, in the middle of August, he sent out a questionnaire to the three American consuls in the kingdom, Alexander Hammett at Naples, Benjamin Gardner at Palermo and I. L. Payson in Messina. They readily answered with all the information at their command. All were enthusiastic for a commercial understanding.

The return of the King the latter part of August stirred renewed action on the indemnity. Nelson wrote Cassaro August 29 for an interview. When Nelson called, September 3, he was sadly informed that the Princess, Cassaro's wife, had died a day or so before, thus making it impossible for the Secretary to be at his disposal. Nelson expressed his regrets and withdrew.

Eight days later, Commodore Patterson sailed in with the *United States*, his flagship, and the *Brandywine*, having with him two communications from Washington dated June 11 and June 16.[1] Nelson opened the first all eager to hear the will of the President. As he read, Nelson was amazed at the moderation displayed. His aggressive despatch of March 12, to which it was an answer, should have, in his estimation, elicited a more

[1]At the time these vessels sailed from America, speculation was rife concerning the methods the administration would adopt to enforce payment. The general impression was that the navy would be called upon to lend its influence. A Washington correspondent of the New York *Courier and Enquirer* in close touch with the White House advanced this opinion: "If the Neapolitan government has not acted honorably and quickly and decided on the demand, be assured that the American flag, in no good humor, will soon float in the bay of Naples to some essential purpose. The navy, now under the able management of Secretary Woodbury, was never in a higher state of efficiency and order; I have no doubt, thousands would like the chance of a brush with the Neapolitans." *Niles Register*, which quotes him, then proceeds in its humorous fashion to criticize the opinion. "What could they get by it? Not even 'hard-knocks' or glory, and surely nothing else; some Cockburns, plundering of spoons and hen-roosts, which our seamen will not engage in." Vol. 42, p. 210.

spirited reply from the stern old soldier. But Jackson, though inexorable in duty, was just in its execution. The letter may be a revelation to those who are accustomed to think of him in terms of impulsiveness and even harshness. The note stated that the President was inclined to disagree with Nelson, believing that the absence of Cassaro had been unavoidable.[1] This had induced him to defer any communication to Congress until he should hear news of a more positive character. A hope was expressed that Naples appreciating this indulgence on his part, had already consented to the indemnity. If such were not the case, Nelson was to send a final note making a peremptory demand that the debt owing to the United States be promptly paid.

> The Frigate *United States* despatched to demand this answer, will wait twenty days to receive it, and if, at the expiration of this time, a satisfactory answer is not given, and proper provision is not made for the payment of our citizens, you are directed to ask for your passports to return to your country, and that the President will then take such measures as his constitutional duties shall direct. After the delivery of the note, you are to depart at the specified time, or sooner, if an unsatisfactory answer shall be given.

In the second letter, Nelson received another surprise. The Secretary of State confessed his keen disappointment that Nelson had failed to follow up his despatch of March 12 with details of subsequent happenings. He had eagerly opened the despatch of March 31, expecting decisive information of Naples' acquiescence or positive refusal, but found only a bill for salary and a list of expenses. He was kind enough to presume that nothing had been said or done that Nelson thought important to communicate, but he gave the envoy the sage diplomatic counsel: "That there is no change in a situation is frequently of as much importance to know as it would be to be apprized of any new event that occurs."[2] In order not to discourage his subordinate by this remonstrance, Livingston was kind enough to add:

> These reflections are dictated by the anxiety felt, not only by the government, but by individuals interested to know the precise state of the important

[1]Instructions, U. S. Ministers, Vol. 13. Livingston to Nelson, June 11, 1832.

[2]*Ibid.*, Livingston to Nelson, June 16, 1832.

demands we have made, and are by no means intended to convey our censure. The government has the fullest confidence in your zeal and ability to effect the end of your mission—a confidence which no one feels more strongly than I do personally.

CHAPTER VII

SUCCESS

Livingston's rebuke, though gentle, wounded Nelson's pride and spurred him to instant action. Forgetting or ignoring Cassaro's grief, he promptly wrote to the Secretary, complaining of previous delays in securing an answer and demanding an immediate interview. Cassaro must have felt sorely hurt at this ungenerous intrusion upon his sorrow, but realizing the danger of adding to the irritation of an exasperated nation, he set aside his personal feelings and wrote a polite answer the same day, assigning September 14 for the interview. Nelson's better nature now asserted itself and he sent him condolences and an apology.

The interview was an encouraging one. Cassaro admitted that the claims were just and that Naples was about to pay. The King alone was yet to be won. The Bourbon mind at best could reason but slowly, especially when it was a question of surrendering good gold. The difficulty would be about the sum. Naples, Cassaro said, could pay but little. Would Nelson kindly suggest a likely amount? The American envoy bluntly informed the Prince that America wanted payment of the full bill—original losses, consequential losses and interest. Cassaro replied decisively that Naples would not agree to pay interest, first because her finances were too depressed, and secondly because France had not been required to pay it.[1]

This perplexed Nelson: he did not know whether interest had been asked from France. He mumbled something about the American claim being just anyway, but perceiving the hopelessness of the effort to secure it, he promised Cassaro to reflect upon the propriety of withdrawing it. Cassaro then asked Nelson to decide on a certain sum, as low as he could possibly make it, and submit it the following Monday, September 17. To an enquiry made about the prospects of a commercial treaty, Nelson replied that he had no instructions, but that with the question of indemnity settled, he would hold out every confidence. He promised moreover to submit a tentative draft, though he reminded the Prince that it must be considered absolutely unofficial and carrying no obligation.

[1]For a full discussion of the French claims, Cf. *Annals* of 22d Congress, 2d session, pp. 202–297.

Nelson at once plunged into the work of submitting his bill. Before he lost himself with figures, he took the precaution to suggest to Commodore Patterson to remain in the harbor with his four vessels, as the presence of these ships would give much weight to the impending negotiations. Making a careful study of the papers of the legation, especially those left by Appleton, he found that the Neapolitan government, October 12, 1825, had virtually accepted Appleton's estimate as to the number of ships and their value, so he took this as a basis. The vessels with their cargoes had been sold for 3,030,781 ducats and 93 grains.[1] The value of the two vessels still in the Neapolitan naval service brought the total figure to 3,100,000 ducats. Besides these sales, Naples had realized excessive port duties, quarantine fees, etc., which conservatively could be put at 50,000 ducats. The actual loss to American merchants, therefore, in money was 3,150,000 ducats.

Assuming that all the sales were completed by September 17, 1812, an interest of exactly twenty years and at the normal rate of 5 per cent could be levied on the original loss. This would then make the bill:

Principal	3,150,000 ducats
Interest, 5 per cent, 20 years	3,150,000 ducats
Total	6,300,000 ducats

To this amount, on the express demand of the President, Nelson added 7,679 ducats, the expense of the government for bringing back the stranded seamen. The full amount then of Naples' obligations to the United States was the sum of 6,307,679 ducats. But in a spirit of compromise and to reciprocate the good intentions of the Kingdom of Naples, Nelson decided to leave out the item of interest and submit as his lowest possible figure, the sum of 3,157,679 ducats.[2]

On the day agreed upon, Nelson called at the Foreign Office and left the invoice with the Under-Secretary. Cassaro was absent till the nineteenth, but had made provisions to have the communication relayed to him. On Saturday the twenty-second, the American envoy received a note inviting him to a conference

[1]The value of a Neapolitan ducat in American money was .835 or roughly four-fifths of a dollar.

[2]The full account of these conferences is in Nelson's despatch to Livingston, October 15, 1832. Naples, Vol. I.

on the following Tuesday. This meeting was a lengthy one, since many features of the bill had to be discussed.

Cassaro opened by remarking that he had been pained to see the item of interest included in the statement after his explicit warning that Naples would never submit to it. Nelson explained that he had incorporated it in the invoice merely for Cassaro's information, not as a claim; that in a compromising spirit, he was willing to waive the sum, though let it be understood, America had full right to demand it. Cassaro shrugged his shoulders and somewhat caustically again reminded Nelson that the United States had not asked interest of France. Further, he mentioned that the United States had presented a bill of 79,000,000 francs, and had accepted one-third of this amount, and this, France had agreed to pay only after the active interference of Lafayette. Naples, on account of her dire poverty, should be billed in moderation. Nelson's figure, he complained, exceeded the sum Murat had realized from the sales. To be definite, he felt certain that his sovereign would be gracious to give one-third of the total sum accrued by sale of the confiscated ships.

Nelson was not greatly surprised at this insignificant, tentative offer. He appreciated Naples' viewpoint, but he warmly proceeded to show its absurdity. The case with France was different, he explained. Many of the claims against that country were doubtful; neither the number of ships seized nor the value of their cargoes had been definitely ascertained as in the case of Naples. This necessitated a deduction in the bill. The sum Naples had been asked to pay was in every way accurate and just. Cassaro was invited to show any inaccuracies in the invoice and given permission to correct them. Cassaro did not reply, but it was by no means an acquiescence in the estimate. Nelson then asked him for a more definite sum than the vague one-third of the proceeds of the sales. The Prince replied that he would submit it the following day and expressed the hope that since it would be the highest possible sum Naples could afford, it might be agreeable to the American government. Nelson flatly warned Cassaro that he need not expect acceptance if the sum were too low. "But even if the figure in your estimation prove too low, would you not submit it to your government?" To this query, Nelson positively assured the Prince that he would do no such thing. If the indemnity proferred did not fairly compensate the American merchants, he would immediately ask for his passports. Cassaro's reiterated protestations of the poverty of his country did not

move Nelson. He was willing to be liberal, but Naples, he said, had to make up her mind to pay a decent sum or abide by the consequences.

Another discussion ensued. Cassaro intimated that a convention could not be drawn up by the time Nelson had specified, (October 1). The Marylander disagreed, saying that the matter of indemnity could be adequately disposed of in two or three articles. "But what about commerce? We want a commercial treaty included in the convention." To this Nelson vigorously protested; he could not mix indemnity with commerce. "My government is unwilling to have the indemnity convention depend on a commercial treaty. Rather, it is the other way round." It was made clear to Cassaro that the question of trade reciprocity might be contemplated only after America had been appeased by a fair reimbursement. With this understanding in mind, the conference closed.

On the twenty-ninth, Nelson was informed by a note that a decision had been reached and that it would be handed to him the following day if he would call. The message expressed the hope that the sum proposed would be acceptable to Nelson, but that if it were not, he ought in all fairness to submit it to his government. Nelson had his own ideas about this.

The next day Nelson visited the Foreign Office. After being comfortably seated, he was handed a paper containing the offer of the King. This he proceeded to peruse with interest. Ferdinand had worked out a neat problem in proportion to arrive at his offer: the original bill against France is to what France actually paid, as the original bill against Naples is to what Naples offers to pay. In cold figures the problem stood thus:

$$93{,}000{,}000 : 25{,}000{,}000 :: 3{,}157{,}679 : \times$$

The result of this mathematical effort on the part of the King was the astonishing sum of 800,000 ducats, and in Ferdinand's royal estimation, a princely concession.

Nelson pushed back the paper disdainfully. He was surprised and pained. In a sharp tone, he told Cassaro that the sum mentioned was absurd. If this was a new trick to prolong negotiations, it would not work, for his instructions were peremptory to leave the Court by a given date. If the King persisted in this figure, he would immediately depart.

Cassaro then used all his art to soothe the feelings of the American. He pointed out that Naples was just in taking the

convention with France as a basis of payment: that an indemnity of three million ducats was an impossible sum to her. In fact, this figure was higher than that which France herself had finally been called upon to pay for all her many spoliations. Nelson listened with listlessness and then flatly rejoined that it was a question of the original demand or his passports. At the mention of passports, Cassaro said that in such an event, he would immediately despatch a chargé to Washington to negotiate further, but he begged Nelson to reduce his demand to the lowest possible amount. He would ask the King to reconsider his offer and would acquaint the envoy of the reaction the following day, October 1. Nelson wavered and finally agreed to be satisfied with 2,500,000 ducats, but he solemnly warned Cassaro that it was his rock-bottom estimate.

Again the next day, Nelson presented himself at the Chancery to hear the King's will. He was destined to learn of one predominant characteristic of the whole Bourbon family—its rigid consistency in dullness, as well as vice. Cassaro with genuine regret informed Nelson that the King had remained obdurate in spite of his pleadings, and that he could offer nothing beyond 800,000 ducats. Nelson bowed and took his leave. Arriving at his lodgings, he wrote a note demanding his passports, and another, asking an audience of leave.

Nelson then immediately got in touch with Patterson and asked him to make ready one of the vessels for conveyance of despatches. Assured that it was at his disposal, he indited a short note to Livingston, giving him a bare outline of the negotiations thus far, and adding,[1]

> I design sailing for the United States by the end of the week and hope to reach Washington by the middle of November, to give you a detailed report of all since my despatch No. 8 (July 12). This (No. 10) is a duplicate, so you may be sure to get it. The ships of the American Squadron, the *United States*, *Brandwine*, *John Adams* and *Concord* are here. The *John Adams* will sail for Marseilles tonight; the *Concord* for Portsmouth as soon as I have my audience of leave.

That night, as agreed upon, the *John Adams* hoisted sails for France, bearing Nelson's despatch. The plan was to carry it to

[1]Naples, Despatches, Vol. I, Nelson to Livingston, October 2, 1832.

Marseilles and then have it forwarded to the United States *via* Havre and Liverpool.[1]

The Prince of Cassaro replied on the third, transmitting Nelson's passports, while warning that the King did not consider the negotiations closed, but would send a minister to the United States to continue negotiations.[2] Another note informed Nelson that an audience was assigned for Friday, October 5, at eleven in the morning in the royal apartments. These two notes were not an hour old in his hands, when the Austrian chargé called. He told Nelson that he had keenly followed the negotiations and was of the opinion that everything would turn out satisfactorily if Nelson would remain another month. Nelson shook his head: he was leaving Saturday, and that was final. The Austrian envoy had scarcely left Nelson when a Sicilian nobleman of much influence with the government, presented his card. He implored Nelson with great earnestness to consent to stay another fortnight, but to no avail.

The following day, these gentlemen repeated their visits, and made the same request. Nelson became curious and had them trailed. He discovered, what he had suspected, that they were emissaries of the Bourbon court. Evidently, it was weakening. When the Austrian diplomat called again, Nelson bluntly told him that if Ferdinand wanted a renewal of negotiations, he was to ask him officially to delay his embarcation and Nelson would consent to stay a few days longer.

The next morning, the fifth, Nelson prepared for his audience of leave with the King. A note came from Cassaro saying that the King had urgent business and could not see him, but would not the American envoy honor Cassaro with an interview? It was a pretty subterfuge that did not deceive Nelson, but human enough to take this new opportunity of ending his mission successfully, he acceded.

Saturday, the sixth of October, he and Cassaro were closeted for a long time. The diplomats became merchants haggling over a price. Cassaro pleasantly informed the American that the King had graciously consented to a million ducats. Nelson smiled wanly and told the Prince to do a little climbing. Cassaro mentioned 1,200,000 ducats. This likewise was flatly rejected. Grudgingly, the Secretary mounted to 1,500,000, but it was futile.

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[1]Captains Letters, Patterson to Woodbury, October 15, 1832.

[2]Naples, Despatches, Vol. I, Nelson to Livingston, October 15, 1832, enclosure. Cassaro to Nelson, October 3, 1832.

Cassaro then put all the warmth of his Latin temperament into an oratorical appeal to have 1,800,000 suffice, but Nelson still lent a forbidding countenance. Finally, he looked hard at Nelson and named 2,000,000 ducats. This too was declined.

Cassaro was plainly grieved. He frankly confessed that he had gone as high as he dared and must stop at this figure. Nelson was intelligent enough to see that Cassaro was sincere, and feeling that further obstinacy would have a bad consequence, decided to waive a point and cut down his demands to 2,225,000. Cassaro cordially thanked him and said that he would acquaint the King, for he had not authority in this matter. An answer was promised on the morrow.

The reply of the King was disconcerting. He would not agree to so exorbitant a demand in spite of the protestations of his ministers. Nelson, however, felt that he would come to terms in a few days. Yet, he knew that the King had planned to go to Capua soon and to stay there a long time. If the negotiations did not end before Ferdinand left, then the American would have to return home in failure after being so near to success. The human element again entered into Nelson's deportment. He suggested 2,115,000 ducats, a sum that nearly covered the principal of all well-founded claims, and, as he fondly expected, it was accepted. The effort of twenty years had at last culminated in success. Nelson could well congratualte himself on his achievement.

Hammett, the consul, was delighted and assured his countryman that the merchants would be more than pleased. Patterson too was elated, especially since he had contributed to the victory. With a sailor's naivete, he reported to his superior, October 13.[1]

> It is admitted by Mr. Nelson that the appearance of the Squadron in this bay has had great effect in producing so favorable a result.

At Nelson's request, the *Brandywine* was despatched to Marseilles with letters informing the State Department of his success. The *Concord* was to be made ready to take Nelson home as soon as the convention was drawn up and signed.

The *American Annual Register* for 1832 gave the credit mainly to the Secretary of State, Edward Livingston, since "he thought to make the demand in an imposing manner."[2]

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[1]Captains Letters, Patterson to Woodbury, October 13, 1832.

[2]Boston, 1833, p. 19.

> Knowing the effect that a suitable demonstration of force would produce on that government, the vessels of war belonging to the United States then in the Mediterranean were ordered to assemble in the harbor of Naples, leaving it to the imaginations of the royal advisers to divine with what intent a powerful fleet was concentrated near the capital at the critical moment.

The London Globe's comment on the achievement was not very flattering:[1]

> The Government of the United States by menace or cajolery, has extorted a sum of £35,000 from the Neapolitans in indemnity of certain losses under the government of King Joachim, seventeen years ago! Jonathan is often ridiculed by our Tories for underpaying his diplomatic agents. These ill-paid servants it must be allowed, do their business pretty well.

Gladstone, Bryce, the Sulgrave Institute, Lord Northcliffe and Sir George Watson had yet to make their appearance in the field of Anglo-American reconciliation.

Cassaro was as happy over the event as Nelson and the other Americans—so happy, that he forgot himself and mentioned a commercial treaty. Nelson pleasantly reminded him that they had enough work to do drafting terms of indemnity. and could with safety leave the other question to future consideration. Nelson was correct. The task of determining the modes of payment brought its problems and the two statesmen again took on the role of business men.

The American envoy suggested that the sum be paid within five years. Cassaro vigorously insisted on a twelve year term. In his instructions, Nelson had been told to demand payment within four or six years. Cassaro seemed so determined for a longer period that Nelson decided to yield a bit. The matter, he thought, could not be of sufficient importance to warrant a new rupture. After a great deal of discussion, a period of nine years was agreed upon. It was a perfect compromise between Cassaro's twelve and Livingston's six.

On the question of interest, Nelson thought of naming a rate that would be readily acceptable by virtue of its reasonableness, so he offered five per cent. Much to his chagrin, the skeleton of the Gallican claims was again resurrected. Cassaro appealed to

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[1]January 19, 1833. Quoted by *Niles Register*, Vol. 43, p. 330.

the convention with France, saying that she was paying the United States but four per cent interest on the total sum of the indemnity. A few more matters came up for discussion, but they were quickly settled. At last the full draft of the treaty was ready. Owing to the King's dilatoriness, it was not signed until the fourteenth, which oddly happened to be a Sunday. The text of the treaty follows:

> The Government of the United States of America and His Majesty the King of the Kingdom of the Two Sicilies, desiring to terminate the reclamations advanced by said Government against his said Majesty, in order that the merchants of the United States may be indemnified for the losses inflicted upon them by Murat, by the depredations, seizures, confiscations, and destruction of their vessels and cargoes, during the years 1809, 1810, 1811 and 1812, and His Sicilian Majesty desiring thereby to strengthen with the said Government the bonds of that harmony, not hitherto disturbed: The said Government of the United States and his aforesaid Majesty the King of the Kingdom of the Two Sicilies, have with one accord resolved to come to an adjustment; to effectuate which, they have respectively named and furnished with the necessary powers, viz:
>
> The said Government of the United States, John Nelson, Esquire, a citizen of said States, and their Chargé d' Affaires near His Majesty the King of the Kingdom of the Two Sicilies; and His Majesty, His Excellency D. Antonio Maria Statella, Prince of Cassaro, Marquis of Spaccaforno, Count Statella, etc., etc., his said Majesty's Minister Secretary of State for Foreign Affairs, etc.;
>
> Who, after the exchange of their respective full powers, found in good and due form, have agreed to the following articles:
>
> ARTICLE I
>
> His Majesty the King of the Kingdom of the Two Sicilies, with a view to satisfy the aforesaid reclamations, for the depredations, sequestrations, confiscations, and destruction of the vessels and cargoes of the merchants of the United States, (and for every expense of every kind whatsoever incident to or growing out of the same) inflicted by Murat during the years 1809, 1810, 1811, and 1812, obliges himself to pay the sum of two millions one hundred

and fifteen thousand Neapolitan ducats to the Government of the United States; seven thousand six hundred and seventy-nine ducats, part thereof to be applied to reimburse the said Government for the expense incurred by it in the transportation of American seamen from the Kingdom of Naples, during the year 1810, and the residue to be distributed amongst the claimants by the said Government of the United States, in such manner and according to such rules as it may prescribe.

ARTICLE II

The sum of two millions one hundred and fifteen thousand Neapolitan ducats agreed on in article the first, shall be paid in Naples, in nine equal installments of two hundred and thirty-five thousand ducats, and with interest thereon at the rate of four per centum per annum, to be calculated from the date of the interchange of the ratifications of this convention, until the whole sum shall be paid. The first instalment shall be payable twelve months after the exchange of the said ratifications, and the remaining instalments, with the interest, successively, one year after another. The said payments shall be made in Naples into the hands of such person as shall be duly authorized by the Government of the United States to receive the same.

ARTICLE III

The present convention shall be ratified and the ratifications thereof shall be exchanged in this capital, in the space of eight months from this date, or sooner if possible.

In faith whereof the parties above named have respectively subscribed these articles, and thereto affixed their seals.

Done at Naples on the fourteenth day of October, one thousand eight hundred and thirty-two.

[SEAL] JNO. NELSON,
[SEAL] THE PRINCE OF CASSARO.
October 14, 1832.[1]

[1]The original Treaty is kept in the Bureau of Rolls and Library of the State Department. Copies of the Treaty may be had in many books, the most available of which is the publication of the Government Printing Office, *Treaties and Conventions of the United States and other Powers*, Washington, 1889.

This, then, represents the first convention ever entered into between the American nation and an Italian people. In spite of twenty years of bickering, it reflected a genuine and mutual attachment between the mighty republic of the Western Seas and—not the tyrannous court of the Bourbons to be sure—but with the people of enslaved Italy. The liberty and freedom of America was inspiring Italians to throw off the yoke of despotism, and Americans were watching with deep sympathy, their every effort.[1] In this treaty and in the others that followed, especially with Sardinia, the Sword of Italy, were forged bonds of amity and friendship that helped to steady the inexperienced hand of *La Giovane Italia* in raising aloft again on her smiling hills after a milennium of oppression, the glorious banner of freedom.[2]

The same day that the Treaty was signed, Nelson wrote Secretary Livingston a short note, telling him of the happy conclusion of his labors and enclosing a copy of the Treaty. The following day, he wrote out a lengthy report of all that had occurred since July 12, accompanied by sixteen enclosures. The same evening, he boarded the *Concord*, Captain Perry in command, waiting for him in the harbor, and bade farewell to the lovely city over which grim Vesuvius sternly stands guard. He had with him the original Treaty and all the papers relating to the claims. These would be required in Washington to apportion the indemnity among the various claimants. All other documents were left with Hammett.

Five days out at sea, he wrote another long report concerning the commercial treaty which might be entered into with Naples. We have mentioned his summer's task of collecting information on this subject and his submitting on September 14 an informal draft to Cassaro. Nelson took this occasion of suggesting the utility of such a convention with Naples. It would be tremendously advantageous to Naples, but even more lucrative for America.

The *Concord* anchored at Portsmouth, December 5, just too late to spare the proud old President the necessity of an apology

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[1]Italy had keenly watched America's efforts, fifty years before, to throw off the English yoke. Naples especially took much interest in the American Revolution. The Ministry knew in detail of every happening in Philadelphia. At Rome, Monsignor Lazzari began a diary of the American Revolution. Cf. Fish, *American Diplomacy. p. 24.* New York, 1923. All are familiar with Botta's *American Revolution.*

[2]Jackson, as we will have occasion to see later, was warm in his praise of the conduct of the Neapolitan government. Martin Van Buren, his successor, likewise voiced his convictions that relations with the Two Sicilies had been opened under the happiest auspices. Cf. Richardson, *op. Cit.*, Vol. III, p. 489.

to the nation. In his fourth annual message to Congress, December 4, he had written:[1]

> I regret that by the last advices from our Chargé d' Affaires at Naples, that Government had still delayed the satisfaction due to our citizens, but at that date the effect of the last instructions was not known. Dispatches from thence are hourly expected, and the result will be communicated to you without delay.

Perhaps if the *Concord* had cut straight across from Gibraltar to the pleasant waters of the Chesapeake instead of pointing her prow W.N.W. to the rock-ribbed coast of New England, she might have arrived in time. However, it made little difference, for the people had in the preceding month given Old Hickory another four year mandate, and next December, he would be able to tell them that the Treaty had not only been concluded, but ratified and proclaimed.

Nelson journeyed to Boston and rested there a few days, for the voyage had fatigued him. News of his coming had spread. Merchants and other people interested in the indemnity came to see him to offer their congratulations and their thanks. "The claimants are *entirely satisfied* with the results," he was happy to inform Livingston.[2]

Livingston was quite satisfied too when Nelson presented himself with the Treaty. He could not have hoped for a more ample indemnity. He congratulated his agent and gave him leave to return to his home in Frederick, awaiting future proposals.

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[1]RICHARDSON, *op. cit.*, Vol. II, p. 594.

[2]Naples Despatches, Vol. I, Nelson to Livingston, December 7, 1832, from Boston.

CHAPTER VIII

RATIFICATION

Eleven days after his annual message had been read in Congress, President Jackson officially informed the Senate that on October 14, 1832, a convention had been successfully concluded in Naples.[1] This body then proceeded to its consideration. Senator John Forsyth, the chairman of the Committee on Foreign Relations, to whom it was referred, reported it favorably without amendment, December 31. It was then read a second time before being discussed by the Senate sitting as a committee of the whole. No reservations or amendments having been proposed, it was accordingly reported to the Senate. The same day, at Forsyth's motion, the upper House, with unanimous consent, called for all correspondence on the case, especially the instructions given to the ministers.

Jackson complied after the holiday recess, January 16, 1833. In his note of transmission, January 14, he added this warning:[2]

> It will appear evident from a perusal of some of these documents that they are written by the agents of the United States to their own government with a freedom, as far as relates to the officers of that of Naples, which was never intended for the public eye, and as they might, if printed, accidentally find their way abroad and thereby embarrass our ministers in their future operations in foreign countries, I respectfully recommend that in printing, if deemed necessary, such a discrimination be made as to avoid that inconvenience, preferring this course to withholding from the Senate any part of the correspondence.

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[1] RICHARDSON, *op. cit.*, Vol. II, p. 607. *Senate Executive Journal*, Vol. 4, p. 286.

[2] RICHARDSON, *op. cit.*, Vol. II, p. 632. On Saturday, February 9, the Senate, at Forsyth's motion, removed the injunction of secrecy from Instructions of October 27, 1831 and June 11, 1832 together with Despatches of Nelson to Cassaro, January 31, 1832, February 27, 1832, June 29, 1832 and of Cassaro to Nelson, May 30, 1832; Nelson to Livingston, Oc ober 2 and 8, 1832 were likewise excepted. These were printed as a Senate Document, of which Mr. Nelson received a copy. March 2, 1833, he wrote to Livingston: "I have discovered terrible mistakes in the printed correspondence. There is scarcely a paragraph or sentence free from error. I am mortified to think that letters which cost me so much labor to compose should now go mangled to the public."

It was not till Saturday, January 19, 1833, that the Senate proceeded to vote on the treaty. Forsyth presented his resolution, whereupon the Senate immediately went into executive session. After the slightest discussion and with no amendment, it was[1]

> Resolved—That the Senate do advise and consent to the ratification of the Convention between the United States of America and His Majesty, the King of the Kingdom of the Two Sicilies, concluded at Naples on the fourteenth day of October in the year 1832.

As soon as the Senate had approved the treaty, Secretary Livingston made provisions to have it brought back to Naples so that ratifications might be exchanged with the Bourbon court. In fact, a week before its ratification, having been apprized that it would certainly pass, Livingston had asked John Nelson, who had returned to his home in Frederick, if it were his wish to return to Naples in the same character in which he was first sent, the immediate object of which would be the exchange of ratifications of the treaty which he had negotiated.[2] Nelson, however, had declined, so Livingston decided to suggest to the President the selection of Auguste Davezac, then minister at The Hague. It would not be necessary to relieve him of this office, since the ceremony of ratification would be a simple matter. For this purpose, Davezac could easily suspend his activities in the Dutch capital for a few months. The President assented to the arrangement. Accordingly on January 29, 1833, Mr. Livingston informed the minister of his new duty. Instructions were sent March 7.[3] In order to accelerate the exchange of ratifications, Davezac was empowered to inform the Neapolitan government that negotiations for a commercial treaty would start immediately after the ceremony. Nelson's draft was to be used as a basis, except that instead of determining a duty on wine, he was to offer importation of silks, fruits, statuary and paintings duty free if American rice,

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[1]Thirty-nine Senators, more than the necessary two-thirds concurred. Among them we find such prominent names as Benton, Clay, Foote, Forsyth, Tyler. *Senate Executive Journal*, Vol. IV, p. 301.

[2]Netherlands, Instructions,Vol. 14, Livingston to Davezac, January 29, 1833.

[3]*Ibid.*, Livingston to Davezac, March 7, 1833. Six days later, Livingston despatched another letter asking the minister to send to the Department certain documents relating to the claims, for the guidance of the commission which according to the treaty, Congress would appoint to award the indemnity.

fish, cotton and cotton-twist were accorded the same consideration. If possible, 20 cents or 10 cents a gallon was to be retained on wine, though Davezac was not to urge it too strongly if Naples objected. The instructions went on to admonish:

> Be very cautious of letting your negotiations for treaty be known. Cover your mission altogether by the motive of the exchange of ratifications of the convention, but you may consult safely with Mr. Hammett, our consul at Naples. When you write on the subject of a commercial treaty, let every allusion to it be in cypher, unless sent by a sure hand. Should you be fortunate enough to conclude a treaty, despatch it by special messenger, but do not delay the sending of the ratification of the convention in the hope of concluding the treaty.

Livingston's first communication reached Davezac April 2. He replied on the same day, accepting the temporary appointment to Naples. The chargé was then attempting to negotiate a treaty of commerce with Holland. Wishing to conclude this business before setting out for Naples, he pressed the Dutch minister for a pronouncement. This official informed him that the King would give an answer in a few days. Davezac, therefore, decided to wait, even though it was already beyond the period of his intended departure. The King, however, kept delaying, until finally, by the end of April, the government having shown no immediate disposition to conclude a convention, Davezac decided to suspend the negotiations for the purpose of at once proceeding to Naples.[1] Mr. Packer, the United States consul at Amsterdam, was asked to take charge in his absence.

Davezac left the Hague, May 1, travelling through Belgium and France. When he arrived in Naples, May 24, he discovered that he could have more advantageously remained in Holland two weeks further. Naples was in gala mood on account of the coming marriage of the King's sister, "a lovely and blooming princess" with the Grand Duke of Tuscany, Leopold II. Cassaro assured the American minister that no business was possible during the whole period of the festivities.

Mr. Hammett, the faithful consul, however, was undisturbed by the frivolities of the city, so in this quarter, Davezac found a

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[1]Davezac never succeeded in effecting a treaty. This distinction belongs to Louis Forsyth, who with Adrian Martini, the Dutch minister, signed a convention of commerce, January 19, 1839, in Washington.

little consolation. The two Americans carefully discussed the question of a commercial treaty. The consul, rich in the experience of a service of twenty-four years, was able to give Davezac the best information on the subject. Therefore the two weeks of waiting were not unprofitably spent. As Pinkney, Appleton, and Nelson had done before him, Davezac highly praised the services of Mr. Hammett, ascribing to him much of the success of his mission to Naples.

After the nuptials, which were solemnized on the seventh of June, Naples resumed its normal life. Davezac was then free to proceed with his business at the court. June 8, he called at the office of Foreign Affairs for the ceremony of exchange of ratifications. He had with him the treaty bearing the signature of the President of the United States and stamped with the Great Seal of that country; also the *proces verbal* for the ratification which Livingston had furnished. There ensued a slight disagreement. The Neapolitan officials informed him that their chancery could not admit the American phraseology. Their *stylus curiae* for such a document was rigid and too time-honored to warrant a change.[1] For a while, Davezac was perplexed, since he had explicit orders to keep to the American diction. Finally, however, he decided to agree. The matter after all, being of light moment, he felt certain that his superiors in Washington would not take him to task for so slight a departure from the prescribed form.

With this little difficulty happily obviated, they proceeded according to established diplomatic usage to the actual ceremony of ratification. Davezac handed to Cassaro the original treaty, endorsed with the signature of President Andrew Jackson to the side of the Great Seal of the United States; Cassaro in turn handed to Davezac the second original treaty signed by King Ferdinand II and stamped with his royal seal. The act of exchange was recorded in a protocol or *proces verbal* already agreed upon. Each minister then after signing his name to this record, affixed his private seal. This ended the ceremony.

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[1]Mainly the difference was this, that while the Neapolitan ruler was simply styled Ferdinand II, King of the Kingdom of the Two Sicilies in the American minutes, the Bourbon court insisted on adding all the titles of the King, a lengthy affair. This was the ordinary procedure for a monarchical court. The extreme example may be seen in a Romanoff *proces verbal*, wherein the Czar was painstakingly cited as head of Rusia's innumerable provinces.

The protocol reads:[1]

> The undersigned, having received full powers from their respective governments to proceed to the exchange of the ratification of the convention concluded, and signed on the fourteenth of October, 1832, between the United States of America and His Majesty, the King of the Kingdom of the Two Sicilies, at Naples, for the purpose of terminating the reclamations of the government of the United States for the depredations, seizures, confiscations and detention of American vessels, and their cargoes, made by Murat,[2] have met at the Office of Foreign Affairs, and the said ratifications having been read, have exchanged the same in the manner adopted in such cases.[3]
>
> In witness whereof, the subscribers have signed in both languages, the present act—*proces verbal*—and affixed to it their respective Seal, at Naples the eighth of June, 1833.

AUGUSTE DAVEZAC. [SEAL]

THE PRINCE OF CASSARO. [SEAL]

Davezac's next task was to dispatch the ratified treaty to Washington. Livingston had informed him that the *Brandywine* would be sent to Naples for that purpose, but since it had not as yet put in its appearance, he began making plans to send it to the minister in Paris by special messenger. After a few days, however, Commodore Patterson came in with a part of the Mediterranean Squadron, including the *Brandywine*. Davezac accordingly reverted to his original plan of committing it to the care of the navy.[4] On Patterson's recommendation, Davezac entrusted the precious packet to Lieutenant Harwood, a promising young officer. In less than two weeks after the exchange of ratifications, the *Brandywine* began its homeward voyage to carry to Washington the news of the successful outcome of the first part of Davezac's mission. On August 27, 1833, the packet was handed to the Secretary of State. During the same day, the President

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[1]The American original of the protocol is bound as an ordinary document in the first volume of Despatches from Naples.

[2]It is interesting to note that the Bourbon court never accorded the title of King to Joachim Murat.

[3]For a good treatise on such functions, cf. SATOW, *A Guide to Diplomatic Practice*, pp. 272–6. London, 1917; DE MARTENS, *Le Guide Diplomatique*, Vol. II, pp. 180–5, 1866; FOSTER, *The Practice of Diplomacy*.

[4]The squadron no longer caused consternation in Naples. The men were cordially received. Commodore Patterson especially was shown every courtesy. Naples, Despatches, Davezac to Livingston, June 20, 1833.

issued a formal proclamation informing the nation that the Treaty was in force.[1]

For these tidings there had prevailed in certain quarters the greatest impatience. Out of this feeling arose a slight complication so instructive that it merits mention. Several editors, having received word that Davezac had been sent to Naples to exchange ratifications, timed the event to indulge their long-cherished desire of printing the treaty. Feeling certain that the ratifications had been exchanged by the middle of July, they inserted in their papers, the text of the convention. The Chevalier Dominic Morelli, recently appointed Consul-General of Naples in the United States, seeing some copies, felt it incumbent upon himself as the chief diplomatic official of His Majesty here (there being no chargé or regular minister) thus to protest to our Secretary of State.[2]

> I have seen published in the journals of the United States the Treaty with the King of the Two Sicilies of the years 1809–10–11 and 12, which treaty has not, that I am aware of, been ratified. The completion of this, although it be a mere formality, is not to be considered as of little consequence for putting both governments beyond the reach of those casualities which are always within the limits of probability. I do not say this because I view as doubtful the confirmation what has been agreed upon and made matter of treaty. Far from that, I rather desire you to recollect the reply made by me in your presence to the President, in which I gave my assurance that the word of the King of the Two Sicilies was inviolable, one not to be retracted even though the treaty should not be observed on the part of this government. While I recall this, you will permit me to add that I consider this publication as impolitic, premature, and not well calculated in the present state of suspense between the nations.
>
> The publication of the treaty, it is true, was not made officially: still it is clearly demonstrated that it has been in the hands of an editor. Some person interested, or moved by a spirit of patriotism, has

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[1] *Niles Register*, Vol. 45, p. 32, printed the full text of the President's proclamation.

[2] Neapolitan Legation, Vol. I, Morelli to McLane, July 23, 1833. The Chevalier Morelli had been appointed consul that year, making this remonstrance practically his first official act. It was not his last with Secretary McLane.

> probably thought proper to be the first to announce to the City of Salem, news which is so ardently desired. The political reason of these States, should however have been preferred to such an object.
>
> However, as I had no other end in this remonstrance of mine than to show that this communication was ill-judged, I have only to express my ardent desire that the mission of Mr. Davezac may be speedily accomplished in order that the bonds of friendship between the Kingdom of the Two Sicilies may be soon as possible be firmly fixed.

The consul was correct in his stand that this was an impolitic action, but his protest was more or less perfunctory. News came, as we have seen, August 27, that the ratifications had been exchanged, so the incident was soon forgotten.

The other purpose of Davezac's mission, namely, the negotiating of a commercial treaty, need not greatly concern us. The subject is large well meriting separate treatment. Many obstacles stood in the way, interesting among which were the intrigues of England. Naples had an existing commercial treaty with the British government by which she was bound to accord that power the rights of a favored nation. This advantage English traders did not care to share with Yankee merchants. Davezac spent almost a year in the city trying to batter down this opposition, but failed. The King and his ministers were sincere in their desire to effect an agreement, but rival powers stood in the way.[1] Duties in Holland forced Davezac to leave in March, 1834. Otherwise, he might have achieved success, since he had become a favorite at court, which lessened a good deal of the opposition.

This protracted stay in the Neapolitan capital resulted in a revival of the indemnity question, since while negotiating for a commercial treaty with Cassaro, the King broached a new plan of payment. King Ferdinand, it will be remembered, had consented to the reparation only at the earnest solicitations of his ministers, especially of Cassaro, together with the Austrian chargé.[2] Ferdinand began to repent of his promises to pay so

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[1]Despatches, Naples, Vol. I, Davezac to McLane. January 20, 1834, together with others show clearly England's policy. E.g. "The English minister left no means unturned to thwart my efforts. A subordinate agent of this government let him in on all the news."

[2]Cassaro lost his influence with the King as a result of his friendship towards America. He offered his resignation, but as Count Stakleberg, the Russian minister, had remarked, the King could not afford to accept it. Things went on this way till 1840, when, April 6, he was declared a prisoner of state.

large an amount of money, while Cassaro trembled to think of the measures he might adopt. The King soon relieved him, however, with the surprising order of having him ask Davezac if his government would consent to receive full payment of the whole indemnity at once, at a discount of twenty-five per cent.[1]

Davezac was perplexed at this move, making him hesitant about giving an opinion. Cassaro then suggested that if he did not regard it with favor himself, at least to transmit it to Washington for an official pronouncement. This Davezac accordingly did. Washington misinterpreted this action as signifying that the chargé sponsored the request. Davezac showed that he was blameless by pointing out that the Neapolitan government was making arrangements to pay the first instalment on the conventional date.[2]

In March, 1834, when Davezac received orders to return to The Hague, Cassaro, together with the King, expressed great regret. They begged him to obtain permission to stay longer, assuring him that a treaty would be a matter of time.[3] Davezac, of course, could not assent to this, though he too was sorry to leave. As a testimonial of the profound impression he had made on the Neapolitan court, Cassaro wrote him a very cordial letter before he departed for Holland. While writing to his subordinate, the Chevalier Morelli, Consul-General in the United States, he took the occasion to include a still warmer tribute.[4]

> I cannot omit to make known our gratitude to the President for having committed the business to a gentleman who by his extraordinary acquirements and qualities has in the short space of time passed among us, completely conciliated the feeling of the government and indeed of all whom he has met. It could not indeed be otherwise, for he possesses so much genius, such knowledge of various matters, such elegant manners and entire openness in business that he must be valued wherever he is known. He possesses our entire confidence and no one would contribute so much to strengthen the bond of amity between the two countries and to produce so much advancement to the commerce between them.

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[1] *Ibid.*, enclosure, Cassaro to Davezac, December 14, 1833.

[2] *bid.*, Davezac to McLane, February 19, 1834.

[3] It proved to be a matter of considerable time. E. T. Throop was sent in 1838, William Boulware in 1841, and finally William K. Polk effected a treaty December 1, 1845.

[4] Netherlands Despatches, Vol. 10, Davezac to McLane, April 15, 1834. enclosure. Neapolitan Legation, Vol. I, Cassaro to Morelli, June 18, 1833,

CHAPTER IX

THE AGREEMENT OF 1835

The request of the Sicilian King, transmitted by Mr. Davezac on January 20, 1834, that he be permitted to pay the whole indemnity at once, provided he obtained a discount of twenty-five per cent, astonished Washington, but did not draw a reply. Nothing daunted, the monarch directed his Consul-General in the United States to keep offering the proposition to the American government. Morelli, accordingly, wrote Louis McLane, the Secretary of State, March 14, 1834, officially making the plea in behalf of his sovereign. If agreeable to the President, Davezac would be immediately given the sum of 1,591,250 ducats in full discharge of the obligations. McLane replied on the seventeenth, stating that the case presented some difficulties. The claimants would have to be consulted and the government did not relish the exertion.

Morelli answered at length to this two days later, remarking, first of all, that the administration had negotiated the Treaty without consulting the claimants. He made it clear that his sovereign did not propose to break or even change the convention, but simply wanted to be free of the perplexities of making annual payments.

If this were not agreed to, the instalments would be regularly paid, as provided in the Treaty. He was frank to confess that the arrangement would be advantageous to Naples, but at the same time quite beneficial to the claimants. If the claimants were willing to accept this offer, the United States government should raise no objection, since it had no interest in the matter other than the satisfaction of its citizens. Morelli proceeded to show that Ferdinand's request for a modification of the Treaty was not unusual.[1]

> It frequently happens among governments that treaties are annulled or innovations are made in their terms, by common consent and for the common advantage of the parties concerned in them. To receive at once, that which is subject to casualties from time is agreeable to all, and would be refused

[1]Neapolitan Legation, Vol. I, Morelli to McLane, March 19, 1834.

> by none. The business of the Convention appears to consist entirely in designating the individuals who are to receive the dividends, and there is every human probability that whoever they may be, they would prefer a prompt payment of what may be allotted them, to one at more distant periods, and as a diminution of the sum is justly and necessarily connected with an abbreviation of the term of payment, such diminution is never considered as a sacrifice when taken in conjunction with the time gained in the period of payments.

The day after, Morelli again wrote in the same strain. The Secretary of State answered briefly on the twenty-second, that it was not the wish of the President to "prolong the question of indemnity." This seeming misinterpretation of his message nettled Morelli and he tartly rejoined, March 29,[1]

> . . . The United States Government appears to show but little friendship in refusing to negotiate a second convention, which has no other end in view than to reduce the fulfilment of that which is to occupy many years, to a much shorter period.

Secretary McLane never showed any sympathy with the proposal. His replies to Morelli were short and cold. Particularly icy was his response to this last. Morelli now felt himself justified in transmitting a note which would reveal his genuine feelings toward the ungracious Secretary. It is a choice example of the consummate ability of a Latin to cut with exquisite politeness.[2]

> The undersigned considers it his duty to inform the Honorable Mr. McLane of his having from the first day, completely understood that which it has been thought proper to believe unintelligible, and which has been unfolded under other forms.
>
> I will no longer be discourteous as you intimate, by alluding to the subject again, unless a proper occasion presents itself.

The proper occasion would present itself as soon as Mr. McLane was no longer Secretary of State. Meanwhile, the time

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[1] *Ibid.*, Morelli to McLane, March 29, 1834, McLane's replies could not be found in the volume of Notes from the Department. Likely, they were either lost or considered too unimportant to keep. McLane's position has been intimated from Morelli's letters to him.

[2] *Ibid.*, Morelli to McLane, April 10, 1834.

came for the payment of the first instalment, when Naples punctually met her obligations.

The proper occasion was not long in presenting itself, for on July 1 of the same year, John Forsyth assumed the office as head of President Jackson's cabinet. Morelli broached the subject to the new Secretary, whom he found more considerate.[1]

However, the Consul was at this time, obliged to leave for Mexico City on a temporary mission for his government, a service that forced a suspension of negotiations.[2] Yet the journey did not entirely prevent his pursuing his object. In the midst of his work in Mexico City, he found occasion to remind the American government of the fair offer of his sovereign and to suggest that the coming session of Congress presented a good opportunity for disposing of the question.[3]

He enclosed a letter from his superior in Naples, saying that King Ferdinand was willing to accept either a twenty-five or twenty per cent discount for the consideration of paying all of the indemnity at once.[4] Nothing, however, was done. The President was content to let the matter alone. In his sixth annual message to Congress, December 1, 1834, he referred to this proposal of the King and assigned as the reason for his inaction, his belief that the indemnity was the exclusive property of the claimants over which he had no control. At the same time, he spoke a word of praise for Ferdinand's generous offer.[5] It was for the same motive that president Jackson vetoed the following measure

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[1] *Ibid.*, Morelli to Forsyth, September 19, 1 34.

[2] The Duke of Monteleone, a nobleman of much influence in the Sicil'es, had been robbed of his vast estates in Mexico shortly after Mexico had won her independence from Spain. Ferdinand took up the cause of his courtier and instructed Morelli, his ablest minister across the sea, to go to the Mexican capital and obtain reparation. In order to facilitate the business, he was to importune the active mediation of the American State Department. Our relations with Mexico at this time were assuming a very delicate state on account of the Texas question and the request of Naples was inopportune. Forsyth politely answered July 7, 1834: "The President thinks that intervention of a third nation, even though claim is just in a matter not of a national character, no interposition will be necessary, and might be considered intrusive by the Mexican government. However, we will give a very good letter to the Chargé d' affaires of the United States at Mexico, recommending you to his friendly advice and assistance." Notes from the Department to the Italian Legation, Vol. 6, Forsyth to Morelli, July 7, 1834. *House Document* No. 351, 25th Congress, 2d Session, Annex 145.

[3] Neapolitan Legation, Volume I, Morelli to Forsyth, November 16, 1834.

[4] Neapolitan Legation, Vol. I, Morelli to Forsyth, Dec. 18, 1835. Enclosure, Cassaro to Morelli, January 9, 1834.

[5] RICHARDSON, *op. cit.*, Vol. III, p. 98.

which Congress had passed March 2, 1835.[1]

> *Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled*, THAT the Secretary of the Treasury be, and he is hereby authorized and empowered to compromise with the King of the Two Sicilies, or to dispose of to any other person or persons, for a sum of money to be paid presently, the ratable proportions of the amount allowed and found due the several claimants by the Commissioners appointed under the Treaty aforesaid, on such terms and conditions as may be thought just and reasonable: Provided, the claimants shall signify to the Secretary of the Treasury, their assent thereto.
>
> JOHN BELL,
> *Speaker of the House of Representatives.*
>
> MARTIN VAN BUREN,
> *Vice-Pres. of the U. S. and Pres. of the S.*

Jackson posted himself on constitutional grounds for his refusal to sign this bill.[2]

> I respectfully return to the Senate, where it originated, the "Act to authorize the Secretary of the Treasury to compromise the claims allowed by the commissioners under the treaty with the King of the Two Sicilies, concluded October 14, 1832," without my signature.
>
> The act is, in my judgment, inconsistent with the division of powers in the Constitution of the United States, as it is obviously founded on the assumption that an act of Congress can give power to the Executive or to the head of one of the Departments to negotiate with a foreign government. The debt due by the King of the Two Sicilies will, after the commissioners have made their decision, become the private vested property of the citizens of the United States to whom it may be awarded. Neither the Executive nor the Legislature can properly interfere with it without their consent. With their consent, the Executive has competent authority to negotiate about it for them with a foreign government—an authority Congress can not constitutionally abridge or increase.

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[1] *Senate Journal*, 23rd Congress, 2n Session, pp. 156, 206, 233.
[2] RICHARDSON, *op. cit.*, Vol. III, p. 146.

When the President's message was received, March 3, 1835, on the motion of Henry Clay, it was laid on the table and nothing further was done in the matter. Jackson's veto was sustained.[1]

Morelli returned to the United States in the fall of 1835 and resumed his efforts to win over the President to the King's offer. December 11, he addressed a note to Forsyth, complaining of the inaction on his proposal.[2] He was especially grieved that the question had not been submitted to Congress for its consideration. Understanding the objection of the President, however, he informed Forsyth that he had on his own initiative, put the question squarely up to the claimants themselves. He had offered them a payment of 1,500,000 ducats the eighth of February following instead of 1,645,000 ducats which would be paid in instalments extending to seven more years. This would be asking the meagre discount of less than nine per cent representing a saving of 145,000 ducats on the principal; Naples would accrue advantage only on the substantial amount of interest to be saved.

This proposition was well received by the claimants. Most of them, at least agreed to the arrangements. The chance of realizing much ready money (the country's finances were then depressed) appealed to them more than the alternative of its being doled out in annual instalments, as Morelli knew it would. He argued that since the claimants were willing to do away with protracted payments, the government should raise no objections.

Forsyth promptly put the question to the President. December 17, he advised Morelli of the decision. "The President instructs me to say that his desire to promote the views of His Sicilian Majesty in this matter will insure his ready assent to such a reasonable request. On your presenting us authority from your government, I will treat with you."[3]

Before the State Department would treat with Morelli in an official way, however, it required that he show not only his autho-

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[1]June 8, 1835, the second instalment became due and was promptly paid. This left, 1,645,000 ducats of the original indemnity. Jackson saw fit to include a word of praise for Naples' promptness in payment in his seventh annual message to Congress, Dec. 7, 1835: "The instalments due under the convention with the King of the Two Sicilies have been paid with that scrupulous fidelity by which his whole conduct has been characterized. . . ." *Op. cit.*, p. 149.

[2]*Neapolitan Legation*, Vol. I.

[3]Notes from the Department, Neapolitan Legation, Vol. 6, Forsyth to Morelli, December 17, 1835.

ity from his sovereign, but also prove that he had the consent of all the claimants. Morelli, December 18, transmitted the letter received from Cassaro, January 9, 1834, by which he had been empowered "to do what he might consider proper for the fulfilment of the King's desire."[1] The following day, though busy collecting the affidavits of the claimants, Morelli presumed to send to the Secretary of State, a tentative draft of a convention. It embodied in form his communication of the eleventh on the subject of the payment of a gross sum in lieu of yearly instalments. On the twenty-third, he informed Forsyth that he had received the assent of all the claimants, except a few. Their approval he expected to receive by the next mail.

Forsyth replied to this communication the same day, assuring the consul that[2]

> The President will have no difficulty in approving of this or any other arrangement satisfactory to the Sicilian Government. You may, moreover, assure your government that the arrangement will be hastened as expeditely as a regard to the essential forms of business will permit, and a power will be transmitted to Wells and Co., to receive the money as soon as it is concluded.

A meeting was arranged for the day after Christmas to conclude the agreement. At the appointed hour, Morelli called at State Department and was received by the Secretary in his office. The Convention was accordingly drawn up in duplicate, signed and sealed. The text reads:[3]

> The claimants entitled to indemnity by the award of the commissioners under the Convention with the Kingdom of the Two Sicilies, concluded on the fourteenth of October, eighteen hundred and thirty-two, having agreed to an arrangement proposed by the Consul-General of the King of the Two Sicilies, to receive in full payment of the balance of the indemnity remaining unpaid under said convention, one million five hundred thousand Neapolitan ducats, to be paid in Naples, on the eighth day of

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[1]Neapolitan Legation, Vol. I, Morelli to Forsyth, December 18, 1835, enclosure, Cassaro to Morelli, January 9, 1834.

[2]Notes from the Department, Neapolitan Legation, Vol. 6, Forsyth to Morelli, December 17, 1835.

[3]Bureau of Rolls and Library, State Department. Printed copies of the convention appear in many places. Cf. *Senate Executive Document*, 47, 48th Congress, 2d Session, Washington, 1880.

February, eighteen hundred and thirty-six; and having authorized and requested the Government of the United States to adopt the measures necessary to accomplish that object; the President of the United States has empowered and directed the Secretary of State to make with the Chevalier Morelli, who has the instructions and powers of his Government for that purpose, the following arrangement:

On the deposit in the Treasury Department by the claimants under the Treaty of Indemnity of their several certificates, the Secretary of the Treasury will give directions to the agent of the United States, to apply in Naples for one million five hundred thousand Neapolitan ducats, on or after the eighth day of February, eighteen hundred and thirty-six, to His Sicilian Majesty's Government, which, if paid, will be considered by the United States as a full and complete execution of the said treaty. The said one million five hundred thousand ducats shall be distributed *pro rata* among the claimants, according to the amount of their certificates in the Treasury Department, as the several instalments would have been paid if this arrangement had not been made. The certificates shall be delivered to His Sicilian Majesty's Government, or such other disposition made of them as it shall direct. If the said sum of one million five hundred thousand Neapolitan ducats shall not be paid within forty-eight hours after the demand so as aforesaid to be made by the agent of the United States at Naples, this arrangement shall be void and of no effect.

Signed at the city of Washington, on the twenty-sixth day of December, A.D., 1835, by John Forsyth, Secretary of State, on the part of the United States, and the Chevalier Morelli, on the part of His Majesty the King of the Two Sicilies.

JOHN FORSYTH,
Secretary of State of the United States.

THE CHEVALIER DOMINICO MORELLI,
His Sicilian Majesty's Consul-General at the United States.

December 26, 1835.

While the American signatory transmitted the Convention to the Senate for its ratification, Morelli forwarded his copy to King Ferdinand so that he could affix his approving signature. When Ferdinand received it, he exhibited all the exasperating proclivities of the Bourbon temperament. He objected to the

discount of nine per cent which his agent had named, as not sufficiently compensatory for the sacrifice of a payment in gross, and insisted that the sum be reduced to 1,222,000 ducats. If the claimants would not accept this amount, then the agreement would be considered abrogated.

This dishonoring of his patient efforts of two years, took the heart out of Morelli. Obedient, but listless, he put the new proposal to the claimants. They refused. Thereupon he informed them that the Neapolitan government would revert to the original mode of payment. On June 8 coming, it would pay the third instalment as usual. He ended weakly with a reminder that His Majesty was willing to keep as a standing offer, the proposal to pay the entire indemnity on the consideration of a twenty-five per cent discount.[1]

When informed, Forsyth made no comment. He simply acknowledge the communication.[2] The fact was made known to the Treasury Department and plans were made to receive and disburse the indemnity according to previous arrangements.

The Senate had postponed action on the Convention until Naples should signify her mind. After Ferdinand rejected the agreement, the Senate gave it no further consideration. This august body, however, was soon called upon to settle another question concerning the Neapolitan indemnity.

The claimants were as disappointed as Morelli at the King's not ratifying the Convention. Having thus failed to secure a ready payment from the Neapolitan State, they began thinking that perhaps this could be obtained from their own government. They united with the claimants under the French indemnity to petition Congress that their outstanding instalments be paid to them in gross by the government, and that the government afterward receive into its treasury, the annual instalments as public money. Senator Wright, June 27, 1836, sponsored the proposal. His argument was that[3]

> All the money due under both treaties was bearing an interest of at least four per cent, which would make the advance of the money a safe and profitable operation for the Treasury, while its advance would contribute instant relief to the amount of about

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[1]Neapolitan Legation, Vol. I, Morelli to Forsyth, May 16, 1835.

[2]Notes from the Department, Neapolitan Legation, Vol. 6, Forsyth to Morelli, May 24, 1835.

[3]*Register of Debates*, Vol. XII, p. 1881.

> four million dollars to the great mercantile interests of the country.

A debate ensued in which many political leaders participated. Henry Clay opposed the measure on financial and constitutional grounds and as usual, his speech was forceful. John C. Calhoun also rose to attack it. Sharp and clear was his objection.[1]

> . . . Money is now worth two or three per cent a month, and here you are going to pass a bill loaning it to certain individuals at four per cent a year. The difference is a pure gift. Have we a right to make such a gift? If we have, let the Senator (Wright) show it.

Senator Benton spoke for the bill, while Senators Buchanan, Bayard, and Davis were opposed. When the vote was taken, January 18, 1837, nineteen were for the measure while twenty-one were opposed.[2]

The following year, the claimants made another attempt. This time they suggested to Congress that the United States should become a purchaser of the Neapolitan indemnity stock, amounting to about $963,500, payable in five annual instalments. The Committee on Ways and Means, to which this bill was referred, after a discussion on the proposal, decided to reject it. In their communication to the House, January 20, 1838, announcing their decision, the committeemen based their rejection on the authority of the Secretary of the Treasury, whom they had consulted. In a note to Representative Cambreleng, the Chairman of the Committee, Secretary Woodbury showed why the suggestion was not feasible.[3]

> In the early period of our government, when loans were contracted abroad on the credit and authority of the United States, the sums annually due from the King of Naples could be paid over to the Mediterranean Squadron, or drafts might be placed upon the amounts when received by the agents for the payment of the expenses of foreign intercourse or for the discharge of bills drawn by other squadrons

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[1] *Ibid.*, Vol. XIII, p. 516. Cf. also pp. 514–23.

[2] *Register of Debates*, Vol. XIII, p. 523.

[3] *Committee Reports*, 25th Congress, 2d Session, House of Representatives, Document No. 441. Woodbury to Committee, January 4, 1838.

[4] For the Senate's action, Cf. *Senate Journal*, 25th Congress, 2d Session, p. 233.

> on London. But the certificates in question are negotiable claims to be paid by a foreign power, which cannot be redeemed in advance or unconditionally assumed to be paid hereafter without some trouble or hazard.
>
> The other plan suggested, that of exchanging the credit of our own government for that of a foreign power, would seem to be of doubtful expediency unless other strong public considerations can be assigned in favor of such a course.

After this new failure, the claimants had to be satisfied to receive their money in the specified manner of annual appropriations in proportion to the instalments.

CHAPTER X

THE PAYMENT

In accordance with the provision of the Convention, the first instalment was due to be paid in Naples, June 8, 1834, this being one year from the date of exchange of ratifications. In anticipation of this, the administration in Washington began making plans for its receipt and transmission to the United States. By Clause 7 of the Act of March 2, 1833, the Secretary of the Treasury had been made fully competent in the matter:[1]

> It shall be the duty of the Secretary of the Treasury to cause the several instalments with the interest thereon payable to the United States in virtue of the Convention, to be received from the Neapolitan government and transferred to the United States in such manner as he may deem best, and the net proceeds to be paid into the Treasury.

Before acting, Roger B. Taney, the Secretary of the Treasury, consulted his chief with regard to the selection of an agent and a method which would best further the interests of the United States. As a result of this conference with the President, the Bank of America,[2] in New York, was named to be the receiving agent on this side of the Atlantic, while the European agency was entrusted to Messrs. Wells and Company, of Paris.[3] Secretary Taney, however, informed them that the United States government reserved to itself the right of changing the agent at any time it should deem proper to do so. Wells and Company were to receive as compensation one-half of one per cent for receiving the money and *actual* expenses for shipping, packing, *etc.* The money was to be held by them after receipt from Naples subject to the order of the Bank of America.

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[1] *Statutes at Large*, IV, 666.

[2] This was one of the "Pet Banks" designated by Jackson, October 1, 1833, to receive deposits of government funds.

[3] *Senate Document*, No. 351, 25th Congress, 2d Session. This is a very long document, embodying the correspondence between the U. S. Treasury and Foreign Bankers anent the Neapolitan and French indemnities. There are three series of letters, A, B and C. The A letters, 1 to 53 are concerning Naples; B is exclusively French; C is an assortment. The letters quoted will be referred to by these letters and numbers, as in the case of the present, A 3.

This arrangement was agreeable to the Bank of America. Its President, George Newbold, took the occasion to suggest to Secretary Taney that Wells and Company be asked to transmit the instalments in gold, for there was then a need of more specie in the country.[1] This plan proved equally beneficial to the claimants, for by shipping gold instead of bank notes, nothing was lost by exchange. The Neapolitan gold pieces to be received would be turned over to the mint for recoining into American money.

Acting in conjunction with Taney, Louis McLane, the Secretary of State, informed Dominic Morelli, the Neapolitan Consul-General, of the appointment of Messrs. Wells and Company as the fiscal agents of the administration. Morelli answered that as far as he was concerned, the selection was acceptable. As a point of duty, he would immediately ask his superior, Prince Cassaro, for his opinion. He made a request that Wells and Company be directed not to draw on Naples when the instalments became due, but to wait for the transmission of the sum by Naples. Naples would be prompt in payment. If a draft were drawn on the Neapolitan Treasury before the sums were transmitted, then Naples would have to pay the rate of exchange. This would be a considerable item since they were dealing in large sums. McLane tartly replied on the sixteenth that, according to the terms of the Convention, the United States had the right to choose its own method of payment. Morelli rejoined with the remark that nations were wont to transact business in the manner of individuals and that "he thought it his duty to make these observations in order to obviate any difficulty with respect to the draft."[2]

When Cassaro was asked concerning this, he replied that Wells and Company might draw on Naples if they wished. Upon presentation of their draft, the *Scrivania Reale di Razione* would honor it at sight. However, the Neapolitan government, while accepting the offices of Wells and Company, desired to have the original power given to them by the President. This would be kept in the Royal Treasury as a document in evidence of payments of money.

Wells and Company received the communication of Secretary Taney too late to effect payment of the first instalment on the conventional date. It was not till August 29 that they presented their draft at three days' sight at the Neapolitan Treasury. The

[1]A 4 and A 6.

[2]Neapolitan Legation, Morelli to Forsyth, May 12 and May 19, 1834.

bill called for a payment of 319,600 ducats. This came about from the construction which the firm placed on the terms of the Treaty. They considered that Naples was bound to pay interest on the whole amount of the claims at the first instalment, and not *pro rata* at each. Taney had neglected to give specific instructions on this point. At four per cent this amounted to 84,600 ducats, which added to the principal of the instalment, 235,000 ducats, made up 319,600 ducats. Naples evidently had so interpreted the Treaty, for she made no objection to the amount demanded. This care of Wells and Company saved the claimants from a loss of $42,159.40. The money was handed over to the Company and this acquitted Naples from her first obligations.

Wells and Company in Paris, converted the ducats into napoleons before shipping them to New York. It was prudently decided not to trust the whole amount to one vessel, but to make three shipments, one October 14, and the next two, each in a week's interval.[1]

After being received by the Bank of America, the shipments were duly forwarded to Washington. The process took a long time, for it was not till March 16, 1835, that the United States Treasury could enter on its books an acknowledgment of the whole shipment. In United States money the amount of the first payment came to $266,866. After deducting commission and expenses, Wells and Company transmitted $262,283.56. By the time it reached the Treasury, it had dwindled again to $259,265.09.

The receipt of the second instalment was more prompt. Shortly before the date of maturity, Naples informed Wells and Company that the 310,200 ducats due would be deposited in a bank and that the Company was to authorize some person at Naples to withdraw it at the proper time. This was accordingly done. As before, Wells and Company converted the ducats into napoleons and shipped them in three lots to the Bank of America. The consignment finally reached Washington in October. It amounted, after deduction of all expenses, to $257,067.87.[2]

Two months later, it will be recalled, the Convention was entered into by Morelli and Forsyth whereby Naples would discharge the rest of her obligations by one payment in February, 1836. Woodbury, the new Secretary of the Treasury, thereupon instructed Wells and Company to govern themselves accordingly.[3]

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[1] A 8 and A 13.
[2] A 17.
[3] A 31.

> An arrangement having been entered into between the representative of the Neapolitan government in this country and the claimants under the Treaty between that country and the Government of the United States, whereby the former agrees to pay in full liquidation the balance now due under the Treaty, the sum of 1,500,000 ducats, I think it proper to apprize you that as soon as the whole certificates which were issued by this Department have been surrendered by the holders (the greater part of which are already in possession of the Department), the necessary papers will be transmitted to you to enable you to receive from the Neapolitan government, the sum stipulated above.

The percentage of commission was to be the same for the whole sum in gross as it had been for each instalment and the same manner of shipment was to obtain in this new arrangement. On February 24, Secretary Woodbury sent Wells and Company the power of the President for such a transaction.[1]

Acting on this authority, Wells and Company drew on the Neapolitan government for 1,500,000 ducats. As we have seen, it was not honored, owing to the King's distemper at the insignificance of the discount allowed. Wells and Company promptly reported the incident to their principals and it is probable that Washington first received the tidings from this source rather than through the Neapolitan Consul-General.[2]

> We regret to announce to you that the Convention made between the American and Neapolitan governments for the immediate payment of the seven remaining instalments, has been refused ratification by the latter. Our correspondent at Naples, upon presenting the documents for receiving the 1,500,000 ducats, has received this answer, but at the same time, the assurance that the Treaty will be executed upon its original footing, and that accordingly, the third instalment will be punctually paid at the period it becomes due.

The following June, Wells and Company again wrote to the Secretary of the Treasury to inform him that Naples had promptly paid the third instalment, amounting to 300,800 ducats, or $251,168.00. When the gold reached the United States, it was

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[1] A 33.
[2] A 36.

exchanged for bills at a profit to the claimants. The sum accruing to them thereby, October 5, 1836, was $268,496.92, representing a gain of $17,328.92 over the $251,168.00 normally due them.

Before the next instalment was paid, a situation had developed in the United States which necessitated a slight change in the manner of its shipment. The country was beginning to reap the whirlwind of Jackson's experiments with fiscal matters. He had resolved to crush the Second United States Bank, and after a bitter struggle of years, had succeeded. His victory had its cost. Jackson had been right in his intuition that the Bank was capable of much mischief, and its destruction was perhaps a good thing, but the methods he employed were harsh. The destruction of the Bank, together with the Specie Circular of 1836 made a panic inevitable. The first symptoms appeared in the expiring days of his administration. By the time Martin Van Buren, on whom, largely through Jackson's influence fell the Presidential mantle, had become familiar with the duties of his office, the storm broke with pent-up fury. Everywhere there arose a cry for currency. The Treasury at first thought of the Neapolitan indemnity as a means of satisfying a part of this demand, but then Europe joined in the universal cry and its tone was peremptory. Foreign holders returned bonds and clamored for cash. Feeling that the United States had a prior duty to preserve its credit abroad, Secretary Woodbury, at Newbold's suggestion, decided to keep the Neapolitan gold in Europe instead, to cover some of our obligations there. Accordingly Wells and Company were instructed to keep the gold shipment from Naples in Paris and to hold it at the disposal of the Bank of America. Newbold would then forward to Messrs. Rothschild, Freres, of Paris, an order on Wells and Company for the net amount of the instalment, and thus supply in proportion to its sum, payment for outstanding French bills.[1]

The fourth instalment, amounting to 291,400 ducats or $243,319, was paid in due time and disposed of according to these instructions. After subtracting commission, cartage, and other expenses, the sum dwindled to $211,294.47 as the claimants' share.[2]

In such manner, the five remaining instalments were paid, each as it fell due. It is unnecessary in this place to enter into further detail. The following table will sufficiently explain the main

[1] A 47.
[2] A 54.

facts of the negotiations. The fourth column is on the authority of the Treasury Department.[1]

Instal-ments	*Ducats due– 235,000 plus interest*	*Value in American money*	*What actually accrued to claimants*
1	319,600	$266,066	$516,332.96
2	310,200	259,017	.....
3	300,800	251,168	268,496.92
4	291,400	243,319	211,494.47
5	282,000	235,470	221,135.96
6	272,600	227,621	372,980.80
7	263,200	219,772	60,794.64
8	253,800	211,923	200,973.70
9	244,400	204,974	197,123.67
9	2,538,000	$2,119,230	$2,049,033.12

[1]*Executive Document*, 38, 44 Congress, 2nd Session, p. 104.

CHAPTER XI

THE COMMISSION OF AWARDS

After the Senate had ratified the Treaty, steps were taken to execute it. Agreeable to the provisions of the Convention (Article I), it was decided that the monies to be received from Naples could best be distributed among the claimants through the instrumentality of a commission. This is the usual method of procedure in such cases. The indemnity recently agreed to by France and Denmark were being awarded in such a manner and it afforded a timely example. January 24, 1833, scarcely a week after the ratification, Jackson sent to the House a message urging an enabling act.[1]

Accordingly, on March 2, 1833, Congress passed an act, permitting the President to appoint, with the advice and consent of the Senate, a board of three commissioners. Their duty would be "to receive and examine all claims presented to them under the Convention of October 14, 1832, according to the provisions of the same and the principles of justice, equity and the laws of the United States."[2]. The President was also empowered to appoint, subject to the constitutional prerogatives of the Senate, a secretary of the board, able to speak French and Italian, and a clerk. These officials, together with the commissioners, before entering upon their duties, were to be required "to take an oath well and faithfully to perform the duties thereof".[3] The Board was to sit in Washington and to end its duties in one year from the time of its first meeting. It was authorized to make rules and regulations concerning the time and the manner of the presentation of claims and other discretionary powers were given to it with regard to their acceptance or rejection. For their guidance the Department of State was required to deliver to the commissioners all the records and papers relating to the claims in question. On the completion of their labors, all these papers, together with all others which might accrue to the commission, were to be returned to the Department. The Secretary of State would then send to the

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[1]RICHARDSON, *op. cit.*, Vol. II, p. 633.

[2]*House of Representatives Document* No. 741, 22d Congress, 2d Session. The text of the Act will likewise be found in *Statutes at Large of the United States*, Vol. IV, p. 666. Boston, 1846.

[3]*Ibid.*

Secretary of the Treasury a certified copy of the list of all the awards made by the commission. On receiving the list, the Secretary of the Treasury was directed to distribute in ratable proportions among the persons in whose favor awards should have been made, such moneys as had been received into the Treasury for that purpose.

The ordinary manner of transacting such business is well known. The Treasury receives all moneys payable to the United States for any reason whatsoever and deposits it in the public fund. Congress then makes a specific appropriation. On this legal warrant, the Treasury pays out to the beneficiary the exact amount appropriated by Congress. In this particular case, the function of the commission was simply to tell the Treasury Department who the beneficiaries were.

The same day that the act was passed, the President nominated as commissioners, Willys Silliman, of Ohio, John R. Livingston, Jr., of New York, and Peter V. Daniel, of Virginia. Thomas Swann, Jr., of the District of Columbia was named secretary and G. Breathitt, of Kentucky, clerk. The Senate approved the appointments the same day.[1] On September 18, 1833, these officers of the commission qualified by taking the necessary oath before a justice of the peace. Thereupon, they notified McLane, the Secretary of State, of their readiness to proceed to business. In compliance with the act, Mr. McLane furnished them with all the documents bearing on the case, also the journals of the commissioners under the Florida Treaty and the Danish Convention. The commissioners took rooms lately occupied by the Danish board and commenced their labors. Their first care was to provide for the reception of the claims. For this purpose they drew up the following rules, and adjourned.[2]

> ORDERED—That all persons having claims under the Convention between the United States and His Majesty, the King of the Kingdom of the Two Sicilies, concluded at Naples on the fourteenth day of October, 1832, which are to be received by the commissioners, do file a memorial of the same with the Secretary of the Board, to the end that they may hereafter be duly examined and the validity and the amount thereof decided upon according to

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[1] *Senate Journal*, 22d Congress, 2d Session. *Statutes at Large*, Vol. IX, p. 680.

[2] MOORE, *op. cit.*, pp. 4582–4.

the merits of the several cases, and the suitable and authentic testimony concerning them; which may hereafter be required. The said memorial must be addressed to this board. It must set forth minutely and particularly, the various facts and circumstances whence the right to prefer such claims is derived; it must be verified also by the affidavit of the claimant.

And in order that claimants may be informed of what is now considered by the Commissioners as essential to be averred and established before any such memorial can be received by this board, be it further

ORDERED—That each claimant shall declare in his said memorial for in behalf of whom the said claim is preferred; and whether the amount thereof, and of any part thereof, if allowed, does now and at the time when the said claim arose did, being solely and absolutely to the said claimant or to any other, and if another, what person. And in cases of claims preferred for the benefit of any other than the claimant, the memorial to be exhibited must further set forth when, why and by what means, and for what considerations, such other has become entitled to the amount or any part of the amount of said claim.

The memorial required to be exhibited by *all claimants*, must also set forth and certainly declare, whether the claimants as well as any other for whose benefit the claim is preferred, is now and at the time when the said claim arose was a citizen of the United States of America, where he is now and at the same time the said claim arose was domicilitated; and if any, what change of domiciliation has taken place since.

The said memorial must also set forth whether the claimant, or any other who may have been at any time entitled to the amount claimed, or any part thereof, hath ever received any, and if any, what sum of money or other equivalent, or indemnification, by way of insurance or otherwise, for loss or injury sustained or satisfaction for what is therein asked. And if any such payment or indemnification has been made, to set forth when and from whom, the same was received. And that time may be allowed to claimants to prepare and file the memorials mentioned, it is further

ORDERED, that when the board shall close its present session, it adjourn to meet again on the

> third Wednesday in November next, at which time, it will proceed to decide whether the memorials filed with the Secretary are in conformity to the foregoing orders, and proper to be received for examination.
>
> ORDERED—That the Secretary of this board do cause three hundred copies of the above orders to be printed for the use of claimants; and also that the publishers of the laws of the United States at Portland, in Maine; Portsmouth in New Hampshire; Boston, in Massachusetts; Providence in Rhode Island; Hartford in Connecticut; New York in the State of New York; Philadelphia in Pennsylvania; Baltimore in Maryland; Richmond in Virginia; Raleigh in North Carolina; Savannah in Georgia; New Orleans in Louisiana; and also the *Commercial Advertiser* in Salem to be requested to publish this notice, three times a week for three weeks.

The number of affidavits that began coming in, in response to this invitation, was rather small. Many of the claimants had in the course of twenty years, lost some of their papers and could not make out an accurate bill. Death had overtaken others: the beneficiaries of their estates needed time to ascertain the exact amount to which they might be entitled. They told the commissioners of their difficulties and suggested that they be permitted to examine the papers of the government. The Board convened November 20, and the following day, issued this instruction to the Secretary:[1]

> You are authorized to permit claimants or their agents to examine, and if needful, copy any papers in your possession. No paper however is to be taken or copied out of the office of the commission.

Later, November 26, it was ruled that should this be necessary, permission would be granted on application in writing. This second session continued until December 12. Up to this date only two hundred memorials had been presented. Action on one-half of this number, however, had to be suspended on account of lack of material averment.

By the time the board met for its third sitting, March 3, 1834, ninety-nine more claimants had responded. The commission then realized that it could never hope to complete its task by September

[1]MOORE, *op. cit.*, pp. 4583–4. The whole story of the workings of this board is told in this splendid collection.

18, the date fixed by Congress. The difficulty of getting proofs was preventing the claimants from sending in their statements on time, while each memorial submitted had to be rigorously examined. For these reasons, the commissioners petitioned the President to extend the period. He transmitted their request to Congress, March 14,[1] whereupon that body, by an act passed on June 19, 1834, accorded an extension of six months.[2]

The third session closed March 29. It met again on May 12 and continued its sittings till June 23. Upon hearing that Congress had indulged them more leisure, a recess was appointed till October 6. The fifth session continued throughout the rest of the month of October, adjudicating the cases. A fair hearing was granted to every applicant. "In most cases before the Convention there was little difficulty in determining whether the claimant was entitled to relief. As a rule, where the case appeared to be within the term of the convention, the wrong was so flagrant as to leave little room for discussion."[3]

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[1]RICHARDSON, *op. cit.*, Vol. III, p. 48.

[2]*Statues at Large*, Vol. IV, p. 680.

[3]MOORE, *op. cit.*, p. 4584. The principal argument appears to have been made in what is known as the Pilchard Cases. Late in the year 1811, Alexander Kohly, a merchant of Boston, secured from Prestenau, President of the Neapolitan Chamber of Commerce during Murat's regime, permission to import certain articles, chief among them, pilchards (*salacche*). He went to London and induced Gordon and Company to freight four American vessels the *Horace, Concord, Boston* and *Admittance.* In order to appear not to contravene the Continental System, he secured false clearances for his vessels, purporting to show that they were from the United States, and not from England. His other papers were regular. For some unexplainable reason, the trick was detected by the Neapolitan officials when the ships arrived February 7, 1812. Pending Royal action, they were seized and detained. The case was argued in the courts. Naples maintained that the ships having an English product aboard were to be considered English, and thereby amenable to the Berlin and Milan decrees. It is strange that Kohly let this charge pass unanswered. Evidently he was of the conviction that pilchards are a fish exclusively found in English waters. The fact is, as even the *Standard Dictionary* attests, that it is also common to the Mediterranean. It was only Hammett's painstaking efforts that finally succeeded in saving the ships. They were returned, though no compensation was allowed for freight and demurrage. For these items, Seth and Olive Storer, to whom the estate had devolved, now presented claims before the commissioners. This was notwithstanding the fact that Kohly had received some damages from Gordon Murphy and Company. David B. Ogden, acting as the commissioner's attorney, objected to the claim on the ground that its forging clearances constituted a breach of contract with Naples, for which no indemnity could be expected. Peleg Sprague and Asa Redington, Jr., arguing for the Storers, denied it had been contractual in any sense, and cited for their authority the action of the American courts in attaching no penalties to breaches of marine equity during the operation of the Berlin and Milan Decrees, and the British Orders in Council. The commission finally ruled that the Storers were entitled to some damages and awarded the sum of $10,368.08. *Ibid.*, p. 4586; *House Document*, 242, 24th Congress 1st Session.

A seventh sitting, from December 17 to March 17, 1835, saw the task finished. This last and longest of the sessions performed important duties. At the beginning of the new year, Peter V. Daniel and G. Breathitt resigned their posts as commissioner and clerk respectively. Joseph C. Cabot, of Massachusetts, was selected to take Daniel's place, while John W. Overton, of Kentucky, succeeded to that of Breathitt. On January 2, 1835, in order to safeguard against fraud, the board ordered all claimants to present, as a part of the proof that their claims were genuine, a certificate of the Collector of the port from which the vessel had sailed, of the quality of the merchandise shipped, the names of the shippers, and the amounts of the drawbacks allowed on the various articles.

On January 24th, the commission having completed its examination of the various claims submitted, established and published the following principles to govern the making of the awards:[1]

> ORDERED 1.—That in cases of condemnation, indemnity shall be made according to the actual value of the vessel and cargo respectively, at the commencement of the voyage.
>
> ORDERED 2.—That a commission of 2½ per cent be allowed on the value of the cargo in full satisfaction of the purchase, and charges thereon of the port of exportation.
>
> ORDERED 3.—Freight according to the registered tonnage of the vessel at and after the rate of $40 per ton.
>
> ORDERED 4.—All necessary expenses incurred at Naples by reason of illegal captures and condemnations to be allowed in full.
>
> ORDERED 5.—Interest at the rate of 20 per cent on the amount awarded.
>
> As the commission at this time cannot ascertain whether the fund to be disbursed by them will or will not be sufficient to the payment of all the sums which shall be awarded by this commission, it is
>
> ORDERED—that in each case, sums shall be awarded and reported as the board shall believe

[1]MOORE, *op. cit.*, p. 4584.

> would be justly payable were the fund adequate; and if the sum shall not be sufficient to pay the aggregate amount allowed to all the claimants, a *pro rata* distribution shall be made in conformity with the provisions of the Convention. It is further
>
> ORDERED—That an entry be made or record of all the decisions made by the board up to this date.

In adopting the value of the vessel and cargo at the commencement of the voyage as the basis of the award (Clause I), the commissioners seem to have acted from necessity. In a letter of June 10, 1833, to Davezac, Alexander Hammett had stated that the value of each cargo as sold, could never be obtained. In order that incriminating evidence might be removed, papers had been deliberately destroyed by the Neapolitan officials. The bills of sale that were extant could not be relied upon, since an arrangement had been entered into between the custom-house officials and the buyers, whereby a definite sum was previously agreed upon for certain articles, and no matter what was actually bid at the time of the sale, the merchandise went to the buyer at the secret price. By bidding high, these corrupt buyers had prevented all *bona fide* sales. The only fair method left for determining the award was to accept the current market price of the cargo at the time the vessel sailed.

Having disposed of all the claims that had been submitted to it and awarded indemnity, the commission signed a report addressed to the Secretary of the State and adjourned *sine die*. It is not necessary to quote it since it is a recapitulation of the proceedings of its sessions, which have already been described.

The board made 266 individual awards, aggregating $1,925,034.68.[1] This was an amount averaging .9482 per cent of the fund which the Treaty with Naples later provided. The sum included the twenty per cent interest for which clause 5 of the Rules of January 24 had provided, but on account of the inadequacy of the funds, premiums of insurance were not allowed.

In compliance with the act of Congress passed March 2, 1833, the Secretary of State transmitted this list to the Secretary of the Treasury. The Fiscal Department of Government thereupon

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[1] *Senate Document*, No. 351, 25th Congress, 2d Session. Enclosure, A 21. *House Document*, No. 242, 24th Congress, 1st Session. This latter carries the names of all the beneficiaries together with the individual awards.

issued certificates of award to the beneficiaries. When the first instalment was received, March 16, 1835, amounting to $259,-265.09, the claimants were informed and on presentation of their certificates, were paid *pro rata* according to the amount of the instalment. The authority given to the Secretary of the treasury clearly shows the method of payment.[1]

> The Secretary of the Treasury shall distribute in ratable proportions, among the persons in whose favor the awards shall have been made, such moneys as may have been received into the Treasury in virtue of this act, according to the proportions which their respective awards shall bear to the whole amount then received, first deducting such sums of money as may be due to the United States from persons in whose favor said awards shall be made, and shall cause certificates to be issued in such form as he may prescribe, showing the proportion to which each may be entitled of the amount that may thereafter be received; and on the presentation of the said certificates at the Treasury, as the net proceeds of the general instalments payable by the Neapolitan government, shall have been received, such proportion thereof shall be paid to the legal holders of the said certificates.

During the same year, October 5, the second instalment likewise was distributed among the claimants, since Wells Company had been prompt in shipping it to the United States. And so for the rest of the annual payments. After receipt from Naples *via*, Paris, the Treasury of the United States apportioned them to persons presenting certificates of award. It is surprising to note, though it is quite in accord with the perversity of human nature, that some of the claimants were not prompt in presenting their certificates. After Naples had at last discharged her obligation, June 8, 1842, many still neglected to apply for their money. The treasury department carried the account on its books long after the last appropriation had been made. By 1850, all, except one or two of the laggards, had come in. To them was due the sum of $166.67, which was unclaimed.[2] The Treasury kept the account open for eighteen years, and then, since all books must sometime

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[1]Clause 6 of Act of March 2, 1833. *Statues at Large*, Vol. IV, p. 666.

[2]Officials of the Treasury have assured the present writer that though this surplus was redeposited in the public funds in 1868, when the books were closed, the department will honor the certificates of award whenever presented.

be closed, it balanced its ledger. Thus the Neapolitan indemnity passed into history.

It will be interesting to examine this public ledger of the United States. There in cold type, is written the consummation of a twenty-year effort to seek redress for a wrong committed in a wilful moment by a strange child of destiny.

	Date of the Act Making Appropriation	Amount of Annual Appropriation	Year of Expenditure	Expenditures by Warrants	Repayments	Amount Carried to Surplus Fund	Net Expenditures
Expenses[1] of the Commission	March 2, 1833	$2,541.67	1833	$2,541.67	.....	.....	$2,541.67
	" " "	13,000.00	1834	13,000.00	.....	.....	13,000.00
	" " "	5,917.42	1835	6,098.61	181.19	.....	5,885.14
	" " "	118.00	1836	118.00	.....	.....	.....
	" " "	.....	1837	.....	150.28	150.28	.....
	" " "	155.00	1839	155.00	.....	.....	155.00
		$21,732.09		$21,913.28	331.47	150.28	$21,581.81
Awards of the Commission	March 2, 1833	$516,332.96	1835	$508,436.93	.....	.....	$508,436.93
	" " "	.....	1836	4,633.24	.....	.....	4,633.24
	" " "	268,496.92	1837	253,323.56	.....	.....	253,323.56
	" " "	211,294.47	1838	221,214.08	.....	.....	221,214.08
	" " "	215,402.56	1839	220,827.46	.....	.....	220,827.46
	" " "	378,614.20	1840	373,461.20	.....	.....	373,461.20
	" " "	60,794.64	1841	64,736.68	.....	.....	64,637.68
	" " "	200,973.70	1842	199,887.92	.....	.....	199,887.92
	" " "	197,123.67	1843	193,366.70	.....	.....	193,366.70
	" " "	.....	1844	7,281.58	.....	.....	7,281.58
	" " "	.....	1846	536.20	.....	.....	536.20
	" " "	.....	1849	1,157.79	.....	.....	1,157.79
	" " "	.....	1850	3.11	.....	.....	3.11
	" " "	.....	1868	.....	.....	.....	.....
	" " "	.....	....	.....	.....	166.67	.....
	Total.....	2,049,033.12		2,048,866.45			2,048,866.45

[1]One of the clauses of the act read: The President of the United States is authorized to make such provisions for the contingent expenses as shall appear to him reasonable and proper, and the said salaries and expenses shall be paid out of any money in the Treasury not otherwise appropriated. Cf. *Statement of Appropriations and Expenditures, civil and miscellaneous of the Department of State, from March 4, 1789 to June 30, 1876*, p. 59. Washington, 1877.

This is *Executive Document* No. 38, 44th Congress, 2d Session.

APPENDIX

CRITICAL ESSAY ON THE SOURCES

The subject considered in the preceding pages has received no adequate treatment in any of our general histories. Many give a rapid outline of the affair: some merely mention, others ignore it. A brief but readable account is to be found in Benton's *Thirty Years' View*, Vol. I, New York, 1854; *Treaties and Conventions between the United States and Other Powers*, pp. 1344-5, Washington, 1899; W. E. Curtis *United States and Foreign Powers*, pp. 217-8, New York, 1899, and article *Italy, Diplomatic Relations with United States*, by James M. Callahan, in the *Encyclopedia Americana*, Vol. XV, p. 551. The article, however, follows the style and often the language of Dr. Curtis' account. The best treatment is in John Bassett Moore's, *History and Digest of the International Arbitrations to which the United States has been a party*, (Wharton Edition), Vol. V, pp. 4575-86, Washington, 1898. An outline of a particular phase is obtainable in Lyman's, the *Diplomacy of the United States* from 1778 to 1826, Boston, 1828, Vol. II, pp. 214-221; and in C. R. Fish's, *American Diplomacy*, New York, 1923.

In approaching the subject, the writer first made use of Isadore Mudge's *New Guide to Reference Books*, Chicago, 1923, Channing, Hart and Turner's *Guide to Sources and Readings in American History*, Boston, 1912, Wm. McDonald's *Documentary Source Book of American History*, New York, 1916, and J. N. Larned's *The Literature of American History*, Boston, 1902. These splendid guide books opened a vast literature.

For a thorough grasp of the general history of the United States for the period involved, our chief reliance was Henry Adam's masterly *History of the United States*, from Vols. III to VI, New York, 1884, and Schouler's, *History of the United States under the Constitution*, Vols. II, III, and IV, New York, 1894. Occasionally, we went to the following for a more catholic view of certain topics: Justin Winsor's, *Narrative and Critical History of America*, New York and Boston, 1889, Vol. VII; Woodrow Wilson's *History of the American People*, Vol. III and IV, New York and London, 1902; Richard Hildreth's *History of the United States*, last volume, (to 1821), and John Quincy Adams' celebrated *Memoirs*, especially Vols. II and VI, Philadelphia, 1877. A rapid sketch of international entanglements following the Congress of Vienna may be had in

Henderson's well-known *American Diplomatic Questions*, pp. 306 to 316, New York and London, 1901.

Properly to prepare this narrative a good understanding of the history of Europe, particularly that of France and of Naples was necessary. For this purpose we used extensively *Cambridge Modern History*, Vols. VIII, IX and X. New York and London, 1906; *The History of All Nations*, by Lodge, Vol. XVIII, Phila.1906; *Histoire Generale*, by Lavisse and Rambuad, Paris, 1905, Vols. IX and X; *Histoire de France*, by M. C. Dareste, Paris, 1805, last volume (IX); Martin, *History of the French*, Vol. II, Boston, 1876. The history of France for this period is little more than the life of Napoleon, and the literature dealing with this remarkble man is overwhelming. We have contented ourselves with a review of a few good works, such as Thiers *Consulat et Empire*, New York, 1845. *Napoleon and His Marshals*, by J. T. Headley, New York, 1846. Vol. II contains much about Murat. Finally, Napoleon's own *Memoirs*, edited by De Bourrienne, New York, 1891. The *Memoirs of the Prince de Talleyrand*, Vol. II and III, furnished many interesting items. New York and London, 1891.

With regard to Italy and Naples, there is a wealth of material. We were not able to secure all the works desirable on the subject, but the books we did study easily cover all the essential features. Cesare Cantu in his *Histoire des Italiens*, translated by Armand Lacombe, Paris, 1862, has done a splendid piece of work. His history goes to 1830. *Storia di cento Anni* by the same author, Turin 1863, gives a good picture of Europe from 1748 to 1850. An entertaining summary of this work is Pietro Orsi's *Modern Italy*, New York, 1900. A work of value is an anonymous set of four volumes entitled *Storia di Italia*, Milan, 1824. Other good works are Luigi Anelli's, *Storia di Italia dal 1814 al 1867*, Milan, 1867, Cesare Balbo's, *Storia del Risorgimento Italiano*, 1814-1878, Milan, 1881, and Vol. VIII of *Giovagnoli's Storia Politica di Italia, Milan*, 1850. Bianchi in his *Storia Della Diplomazia Europea in Italia*, Turin, 1865-72, is valuable for his all-around view of European Diplomacy. Farini, one of Italy's best-known historians, continued the tale of his country from 1814, where Botta had left off, and he entitled it, *Storia d'Italia in continuazione a quella del Botta*, Naples, 1860. Good histories of Italy have appeared by English writers. Stillman, in the *Union of Italy*, Cambridge E. 1899, Bolton King, *History of Italian Unity*, London, 1899, and the Chevalier O'Clery in the *History of the Italian Revolutions*, 1796-1849, London, 1875, may be classed as very pleasing, though

brief accounts. The Encyclopedias have satisfactorily treated the subject. In the *Americana*, there is an article by Pietro Orsi, a splendid summary of his book above quoted, Vol. XV, pp., 450-452; in the *Britannica*, Vol. XIII, pp. 484-491, a good review by "J.A.S." and in the *International*, Vl. XII, pp. 480-483, a fair account by an anonymous writer. The article in the *Catholic Encyclopedia*, by Luigi Ventura, though able, contributes little to the present theme.

All these Italian histories give a good outline of Naples, but stress is laid on the revolutionary phases. To get an adequate idea of Naples, her own special histories had to be consulted, and fortunately, they are plentiful. Pietro Colletta's *Histoire de Naples* Paris, 1840 is a good work, though it goes only to 1825; Francesco Carta's *Storia del Reame delle Due Sicilie*, Naples, 1848, gives a good account from the foundation of the Roman Republic to 1848; likewise, Scialoia's *I Bilanci del regno di Napoli*, Turin, 1847. R. M. Johnston made a decided contribution to the subject by writing *The Napoleonic Empire in Southern Italy and the Rise of Secret Societies*, New York and London, 1904. An equally important work is Nicola Vivenzio's *Dell'Istoria Del Regno di Napoli e suo governo dalla Decadenza dell'Imperio Romano fino al presente Re Ferndiando IV*, Naples, 1827. As the title indicates it covers only to 1825. The mentioning of this monarch suggests the scholarly production of Charles Gay, *Negociations relatives a l'establissement de la Maison du Bourbon sur le Trone des Deux Sicilies*, Paris, 1853. The latest, and a very authoritative work is Benedetto Croce's, *Storia del Regno di Napoli*, Bari, 1925. Metternich in his *Memoirs*, New York, 1881, gives many an interesting picture of Naples. The dominant note in Neapolitan history in connection with our study is sounded by Joachim Murat. Maurice Weil has a splendid view of the last year of this soldier of fortune. It took five volumes to tell the story of this eventful year. *Joachim Murat, Roi de Naples*, Paris, 1910. A comparative study with the world-dominant character is had in *Napoleon and King Murat*, by Albert Espitalier, translated by Lewis May, London, 1912. The *Memoirs* of General Pepe, Paris, 1847, give a graphic idea of the troubles that agitated the Neapolitan Kingdom after the Congress of Vienna.

The Archives

Extensive as was the information culled from a study of the above and other works, the subject could never have been seen

in a satisfying light without consulting the manuscripts in the Federal Archives. As a step to the acquisition of this intimate knowledge, the writer was careful to review two guide books issued by the Department of Historical Research, Carnegie Institution of Washington, namely, A. C. McLaughlin's *Report on the Diplomatic Archives of the Department of State*, Washington, 1906, and Van Tyne and Leland's *Guide to the Archives at Washington*, Washington, 1907. These books are of inestimable value, even though on account of slight rearrangements of the material in the various Departments in the score of years that has elapsed since their publication, they are not exactly in harmony with Federal classification.

The Department of Historical Research of the Carnegie Institution also edited a work for the study of our history from the standpoint of Italy. This is Carl Russel Fish's *Guide to the Materials for American History in Roman and other Italian Archives*, Washington, 1911. The material in Neapolitan libraries is not classified in detail, but the information with regard to the depositaries is invaluable. It would have been worth while to visit these libraries and thereby obtain a better understanding of the subject from the Neapolitan point of view, but this was impossible. Much of this has been supplied by numerous conversations with men intimately acquainted with Neapolitan history in which they gave their personal appraisal of the controversy. Moreover, the author has consoled himself by the fact that the American archives are sufficiently copious to allow a fair and proper treatment. Whatever might still be lacking may be said to be fairly compensated by the ties that bind the author to that land. His nativity in a village of the former Neapolitan Kingdom and his thorough Americanization allow, as well as could be expected, room for a balanced, impartial study.

State Department

Most of the correspondence of the State Department is in the custody of the Bureau of Indexes and Archives, and it was to this Bureau that the writer's request for permission to study the manuscripts was referred. The correspondence naturally divides itself into Diplomatic, Consular and Miscellaneous. A subdivision of these three heads regards the source of the communications, whether from the Department to a minister, or from a minister to the Department. In the former, we have Instructions; in the latter,

Despatches. The documents covering our subject were found in the following volumes:

Pinkney's mission—U. S. Ministers, Instructions, Vol. 8.
Despatches, Russia, Vol. 6.

The reason for the correspondence being incorporated in the Russian series is on account of the fact that Pinkney's journey to Naples was a mere incident of his permanent assignment in St. Petersburg.

Appleton's mission—U. S. Ministers, Instructions, Vol. 10.
Despatches, Sweden, Vol. 5.

Appleton, it will be recalled, was appointed to Stockholm after his failure in Naples. All his correspondence was afterwards isted under Sweden.

Nelson's mission—U. S. Ministers, Instructions, Vol. 13.
Despatches, Naples, Vol. I.
Davezac's mission—Instructions, Netherlands, Vol. 10.
Despatches, Naples, Vol. I.

The permanent assignment of Davezac in The Hague is responsible for his Neapolitan instructions being placed with those of the Netherlands.

Notes from the Department to the Italian Legation, Vol. 6, and Notes to the Department from the Neapolitan Legation, Vol. 1, cover the Consular relations.

The Documents in the State Department are skillfully bound in calf for the most part and are in a good state of preservation. There is an index with a brief outline of each communication. This is very serviceable, though to be sure, the student will receive his best information from the lady in charge, who performs the very agreeable role of a living index.

Another prolific source of material in the Department is the Bureau of Rolls and Library. This Bureau is the custodian of the Laws and Treaties of the United States and Proclamations of the Presidents, together with other classes of documents, and maintains the library of the Department of State.

Navy Department

The records of the Navy Department have been singularly free from great losses by fire or water, and are carefully kept. According to the arrangement of the Department, what prac-

tically amounts to Instructions is classed under the title of Letters to Officers, Ships of War, while Despatches are under the head of Captains Letters. The volumes we consulted are the following:

1816—Letters to Officers, Ships of War, Vol. 12.
Captains Letters, Vol. 3.

1831–2—Letters to Officers, Vol. 20.
Captains Letters, January, 1832; February, 1832, July, 1832; August, 1832; October, 1832 and December, 1832.

The volumes covering the period of Appleton's mission were examined, but nothing *ad rem* was found.

Treasury Department

The material here for our purposes was found in the Division of Bookkeeping and Warrants. What was needed in this dissertation, namely, information on the payment and awarding of the indemnity, has already been printed in the executive documents of Congress, and these were consulted, partly in preference and partly at the suggestion of the Treasury Officials. After having been printed, the original letters, from and to foreign banks, were stored out of the way, and access to them is now gained only with difficulty. The Division of Bookkeeping and Warrants kindly permitted the writer the use of the printed volumes and they will be listed under the appropriate title of Congressional Documents, primary printed sources. The author needs hardly mention the immense advantage derived from working under the eye of Treasury Officials.

Primary Printed Sources

Historians will always thank the genius responsible for the authorization by Congress, March 2, 1833, of the publication of state documents from the first to the twenty-second Congress, 1789 to 1828. This resulted in the printing by Gales and Seaton, of a series of thirty-eight folio volumes, called the *American State Papers*, dealing with ten classes of subjects and embracing all the worth-while printable legislative and executive documents for the first thirty years of our constitutional government. The value of these volumes cannot be over-estimated: since their ultimate publication in 1859 in Washinggon they have been a source of consolation to all persons pursuing American history. The first

series of six volumes is entitled *Foreign Relations* and our interest is chiefly here. Vol. III has much material on the French and English depredations, the prelude to the Neapolitan seizures. Vol. IV carries the Pinkney correspondence, and Vol. VI has Clay's exhaustive report on the extent and nature of the Neapolitan confiscations. The series on *Naval Affairs*, Vol. III, especially, is valuable as it gives much information on the activity of our war vessels in the Mediterranean.

From this time onward to 1861, no collections of documents were made and the only sources for the period are the congressional deposits. An indispensable guide to this vast literature was Miss Adelaide Hasse's *Index to American Archives relating to Foreign Affairs, 1828-1861*, 3 Vols., Washington, 1914. This is No. 185 of the Carnegie Publications. Under the heading of *Two Sicilies* in Vol. III is found the ready key to all the phases of the subject. Another helpful book proved a governmental publication entitled *Check List of U. S. Public Documents*, 1789-1909, Washington, 1911.

The *Annals of Congress* were carefully combed and yielded valuable information. Of particular value were volumes of the 10th Congress, 2d session, 11th Congress, both sessions, 12th Congress, 2d session, 13th Congress, both sessions, 15th 1st session, 22d Congress, second session, and 23d Congress, 1st session. Volumes XII and XIII of the *Register of Debates* discuss the question of anticipating payment of the full indemnity. The first few volumes of the *Globe* were slightly helpful. The *Senate Journal* and the *House Journal* covering the 23d, 24th and 25th Congresses were extremely valuable, and the same may be said for the *Reports* of the respective chambers. The information contained therein is generally of a public character. In the *Senate Executive Journal* is found what was at the time, strictly secret, e.g. discussion on the ratification of Treaties, appointments, etc., Volumes III and IV were necessary for this work. The first covers the priod from 1815 to 1829; the latter from 1829 to 1837. The chief source of material, however, proved to be the volumes known as the *Senate Documents*, *Senate Executive Documents*, *House Documents* and *House Executive Documents*. *Senate Document* No. 70 of the 22d Congress 2d session contains all the important correspondence on the Appleton and Nelson missions; No. 351 of the 25th Congress, 2d session has the correspondence to and from foreign banks on the subject of the payment of the indemnity. *Senate Executive Document* No. 242 of the 24th Congress. 1st session is the list of awards, and

No. 38 of the 44th Congress, 2d session gives that page of the Treasury ledger showing Naples' payments. The *House Document* No. 179, 23d Congress, 1st session, deals with a request by one of the claimants to anticipate payment, while No. 242 of the 24th Congress 1st session and No. 351, Annex 145 of the 25th Congress, 2d session, give other interesting side-lights. *House Executive Documents* of note are mainly of the 11th Congress. Finally, *Senate Executive Document* No. 37 of the 48th Congress, 2d session, is a large volume by itself, being a collection of all the Treaties and Conventions between the United States and Foreign Powers since July 4th, 1776.

A handy substitute for this vast congressional literature is Benton's *Abridgement of Debates* 1789 to 1856, New York, 1857, though one must remember that Senator Benton was quite partial to himself and to his party when abridging the debates.

The *Statutes at Large of the United States*, Boston, 1846, contain several items that are included in the above. Volume IV, p. 666 has the Act of March 2, 1833; p. 680 has a note on the commissioners, and Volume VIII has the Treaty of 1832, with the Convention of 1835. The same information is repeated in John Bassett Moore's work already quoted, but here an extensive treatment is given to the working of the commission, as well as a good outline of the three misssions.

A valuable collection is Richardson's *Messages and Papers of the Presidents*, Washington, 1900. All these state papers of the chief magistrates appear in the various Congressional documents, but they are more available in this form. There is a splendid index in Vol. X.

Secondary Sources

a. Repertories

A satisfying source of voluminous information is *Niles Register* 1811-1849, Baltimore. We examined all the volumes up to 1840, but found pertinent items in only Vols. II, XII, XLII, XLIII, XLIV and XLV. One of the agreeable features about *Niles Register* is its numerous quotations from European journals. In this way, the mind of England and of Naples toward the American claims was fairly ascertained. Along the same lines, up to the year 1831, is the *British Annual Register*, London, which gives a careful review from England's standpoint of each year's happenings in various countries. The cis-Atlantic counterpart of this

important source is the *American Annual Register*, New York, 1827-35.

b. Books

The number of helpful books that furnished a setting for this story is large. They may be divided into three categories, namely, historical, diplomatic and biographical. 1 Besides the books on United States History already mentioned, we found it convenient to dip into the following for an occasional added item of interest: *History of the United States* by Garner and Lodge, Philadelphia, 1905; *History and Government of the United States*, by Jacob Harris Patton, New York, 1903; the volume on the *Jeffersonian System*, by Dr. Edward Channing in the *American Nation*, New York and London, 1906. *Documentary History of American Industrial Society*, edited by J. R. Commons, has an introduction in Vol. VII that gives a good description of Jefferson's influence on Commerce; C. A. Beard gives a more extensive treatment of this in his *Origin of Jeffersonian Democracy*, New York, 1915. Since the indemnity issue reached its climax in Jackson's administration, a study of this period was in order. Much has been written, and ably written, on this People's President. Apropos of the dissertation was the summary of Foreign Affairs in Vol. II of Bassett's *Life of Andrew Jackson*, New York, 1911. This is considered by many the best biography of Jackson. Histories of broader vision were the *Historians History of the World*, edited by Henry Smith Williams, New York and London, 1904; *A History of European Diplomacy*, by David Jayne Hill, New York, 1905, which concerns itself with the period before the American Revolution; *European History, Chronologically Arranged*, by Arthur Hassall, London, 1920, and *A History of the Nineteenth Century Year by Year*, by Edwin Emerson, Jr., New York, 1902. The international legal aspects of the question involved may be studied in Vattel's *Law of Nations*, a publication of the Carnegie Institution, Washington, 1916; Wheaton's *History of the Law of Nations*, New York, 1845, and George B. Davis, *Elements of International Law*, New York and London, 1916.

2 . A good grounding in the general diplomatic policy of the United States was obtained by a reading of W. J. Johnson's *America's Foreign Relations*, New York, 1916; J. W. Foster's *A Century of American Diplomacy*, Boston and New York, 1902; J. B. Moore's *America, Its Spirit and Achievements*, New York and London, 1905; Schuyler's *American Diplomacy and the*

Furtherance of Commerce, New York, 1886; Coolidge's *United States as a World Power*, New York, 1919, and J. B. Angell's *Diplomacy of the United States*, Boston and New York, 1884–89. A rather useful book, because it includes many a mention of Naples is C. R. Fish's *American Diplomacy*, New York, 1923. The latest book is by Randolf Greenfield Adams, entitled *History of the Foreign Relations of the United States*, New York, 1924. For an insight into various diplomatic ceremonies and procedure, the Hon. Sr. Ernest Satow's well-known *Guide to Diplomatic Practice*, London, 1917, and Charles de Marten's, *Le Guide Diplomatique*, Vol. II, Leipsig, 1866, were consulted.

3. Books affording a sketch of the lives of persons prominently connected with the subject are plentiful enough. *Appleton's Encyclopedia*, New York, 1886–9, is perhaps the best. Of value are *Harper's Encyclopedia of American History*, New York and London, 1912, *Lanman's Biographical Annals of the Civil Government of the United States*, New York, 1887, *Herringshaw's National Library of American Biography*, Chicago, 1909, *Lamb's Biographical Dictionary of the United States*, Boston, 1903, and *Nelson's Loose Leaf Biography*, New York, 1920. The Encyclopedias which have already been mentioned contain good sketches of the prominent characters. Of all the personages to play a leading role, William Pinkney has received the most generous treatment at the hand of historians. There are several entertaining volumes on his life and achievements. His nephew, Rev. William Pinkney wrote the *Life of William Pinkney*, New York, 1853; Jared Sparks devoted half of Vol. V of his *American Biography* to this diplomat, New York and London, 1902; William Draper Lewis in Vol. II of his *Great American Lawyers*, Philadephia, 1909, bestows fifty pages to an outline of the life of the famous Maryland barrister. An enthusiastic, yet sufficiently tempered review is had in Esmeralda Doyle's *Biographical Sketches of Distinguished Marylanders*, Baltimore, 1877. A very satisfying account is Wheaton's *Life, Writings and Speeches of William Pinkney*, New York, 1826. Interesting touches are furnished by Charles Oscar Paullin in his *Commodore John Rodgers*, who was Pinkney's Bother-in-law. Cleveland, 1910. The Naval Officers have been given narration chiefly in a privately printed work *The Ships of the U. S. Navy and Their Sponsors*, compiled by Edith Wallace Benham and Anne Martin Hall, Norwood, Mass., 1913. Charles Petersen's *American Navy*, Philadelphia, 1859, contains the lives of Chauncey, Biddle and Perry.

c. Periodicals

Interesting items of information were culled from a perusal of New York, Baltimore and Boston newspapers for the years in question. The ones we had occasion to scan were the *New England Galaxy*, Boston, 1817 to 1834, 6 vols.; the *Boston Patriot*, 1809, 1811, 2 vols.; the Boston *Repertory*, 1803 to 1812, 4 vols.; *Baltimore American*, years 1810, 1811, 1812, 1818–1825 and 1826. We failed to discover an article in any magazine dealing with this subject.

VITA

Paul Christopher Perrotta was born in Cervinara, Province of Avellino, Italy, on August 25, 1898. His family emigrated to America in June, 1903 and made its home in New York City. There, in the School of St. Vincent Ferrer, he received his elementary education. After his graduation from grammar school, he entered the commercial department of the same Institution, receiving his diploma in June, 1915. His classical course was taken in Regis High School, New York, and Aquinas College, Columbus, Ohio.

In 1919, he entered the Order of Preachers and made his year's novitiate in St. Joseph's Convent, Somerset, Ohio. At its completion, he went to Springfield, Kentucky, for his first year of Philosophy. In 1921 he was assigned to the College of the Immaculate Conception, Washington, D. C., to complete his philosophical and theological studies. Being qualified on his graduation from philosophy to pursue graduate work, he commenced a course of studies at the Catholic University, embracing the following: American Political History and Interpretation of the Constitution of the United States under Dr. Charles H. McCarthy; American Politics under Dr. Richard Purcell; French under Joseph Schneider, A.M.; American Catholic Church History and Medieval Institutions under Rev. Peter Guilday, Ph.D., LL.D., and Historical Geography under Dr. J. Sequeira Coutinho. In 1925, he obtained the degree of Master of Arts from the Catholic University. On June 4, 1926, he was elevated to the Priesthood.

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AUTHOR
Perrotta

TITLE
U.S. Claims against Naples